

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:11-55766 Barbara Jean Morgan

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK
vs
DEBTOR

Docket 140

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of

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CONT... Barbara Jean Morgan

Chapter 13

trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). *See generally In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

(4) Relief under 362(c)(4)(A)(ii). Deny the request for relief under 11 U.S.C. 362(c)(4)(A)(ii). Such relief is granted if both (i) a single or joint case is filed by or against a debtor who is an individual under this title, and if (ii) two or more single or joint cases of the debtor were pending within the previous year but were dismissed. In this case, neither requirement is met.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Barbara Jean Morgan

Represented By
Devin Sawdayi

Movant(s):

Wells Fargo Bank, NA

Represented By
Merdaud Jafarnia
Erin Holliday
Patricia Livingston
Gagan G Vaideeswaran
Tunisia Cooper
Marisol A Nagata
Tara Evans

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CONT... Barbara Jean Morgan

Chapter 13

Darshana Shah
Melissa G Young
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:13-11127 Frank Edward Friday, Jr.

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

US BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 80

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Frank Edward Friday Jr.

Represented By
Brad Weil

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... Frank Edward Friday, Jr.

Chapter 13

Movant(s):

US Bank National Association, as

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:15-20483 Jovito Soriano Hombrebueno and Yvonne Baul

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

LOAN SERVICING GROUP, LLC
vs
DEBTOR

Docket 39

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtors' response, dkt. 41).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jovito Soriano Hombrebueno

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Yvonne Baul Hombrebueno

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

LOAN SERVICING GROUP, LLC

Represented By
Robert P Zahradka

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CONT... Jovito Soriano Hombrebueno and Yvonne Baul

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:16-23096 Corinne De La Cruz

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Relief applicable to *future* bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii)

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CONT... Corinne De La Cruz

Chapter 13

the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). *See generally In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Corinne De La Cruz

Pro Se

Movant(s):

The Bank of New York Mellon fka

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

2:15-12639 James C Hall

Chapter 13

#5.00 Hrg re: Motion for relief from stay [PP]

AMERICAN HONDA FINANCE CORP
vs
DEBTOR

Docket 60

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

James C Hall

Represented By
Daniela P Romero

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Central District of California
Los Angeles
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Tuesday, November 08, 2016

Hearing Room 1545

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CONT... James C Hall

Chapter 13

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:15-12639 James C Hall

Chapter 13

#6.00 Hrg re: Motion for relief from stay [PP]

HONDA LEASE TRUST
vs
DEBTOR

Docket 59

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

Key documents reviewed (in addition to motion papers): debtor's response (dkt. 63).

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

James C Hall

Represented By

**United States Bankruptcy Court
Central District of California
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Tuesday, November 08, 2016

Hearing Room 1545

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CONT... James C Hall

Chapter 13

Daniela P Romero

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:16-20248 Edward Reed Solomon, Sr

Chapter 13

#7.00 [CASE DISMISSED 10/26/16]

Hrg re: Motion for relief from stay [PP]

MERCEDES-BENZ FINANCIAL SERVICES USA
vs
DEBTOR

Docket 53

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

**United States Bankruptcy Court
Central District of California
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10:00 AM

CONT... Edward Reed Solomon, Sr

Chapter 13

Debtor(s):

Edward Reed Solomon Sr

Pro Se

Movant(s):

Mercedes-Benz Financial Services

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:16-23289 Cindy Contreras

Chapter 13

#8.00 Hrg re: Motion for relief from stay [UD]

LARRY O TAMAYO
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Retroactive relief. Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

(3) Relief applicable to future bankruptcy cases ("in rem" relief). Deny the request for in rem relief for lack of sufficient cause shown.

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

CONT... Cindy Contreras

Chapter 13

Party Information

Debtor(s):

Cindy Contreras

Pro Se

Movant(s):

Larry O Tamayo

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:16-23536 Crystal Alicia White

Chapter 7

#9.00 Hrg re: Motion for relief from stay [UD]

DORSET VILLAGE PARTNERS, LP
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Retroactive relief. Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

(3) Relief applicable to future bankruptcy cases ("in rem" relief). Deny the request for in rem relief for lack of sufficient cause shown.

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

CONT... Crystal Alicia White

Chapter 7

Party Information

Debtor(s):

Crystal Alicia White

Pro Se

Movant(s):

Dorset Village Partners, LP

Represented By
Agop G Arakelian

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:16-23635 Francisco G. Alba and Ernida D. Alba

Chapter 13

#10.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 7

Tentative Ruling:

Grant, subject to the following conditions, and also subject to any opposition at the hearing. Appearances required.

Key documents reviewed (other than the motion papers): the debtor's amended motion for order imposing a stay or continuing the automatic stay (dkt. 9).

After the hearing date the Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this court provides the foregoing simple process for reconsideration.

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Central District of California
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10:00 AM

CONT... Francisco G. Alba and Ernida D. Alba

Chapter 13

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Francisco G. Alba

Represented By
Michael J Hemming

Joint Debtor(s):

Ernida D. Alba

Represented By
Michael J Hemming

Movant(s):

Ernida D. Alba

Represented By
Michael J Hemming
Michael J Hemming

Francisco G. Alba

Represented By
Michael J Hemming
Michael J Hemming

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:14-24101 Leona Moorer

Chapter 13

#11.00 Hrg re: Motion for relief from stay [NA]

TD AUTO FINANCE LLC
vs
DEBTOR

Docket 75

Tentative Ruling:

Continue to 11/29/16 at 10:00 a.m. to address the following issues.
Appearances are not required on 11/1/16.

Reasons:

(1) Evidence of standing. The motion for relief from stay alleges that the movant is the successor in interest to Diamler Chrysler Financial Services Americas, LLC, the lender listed in the installment sale contract attached to the motion, but does not attach any evidence of that relationship, and thus has not established its standing to bring the motion. The deadline for the movant to file and serve a supplemental declaration attaching evidence demonstrating its interest in the property is 11/14/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Leona Moorer

Represented By
Anthony Obehi Egbase
Crystle J Lindsey

Movant(s):

TD Auto Finance LLC successor to

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

CONT... Leona Moorer

Chapter 13

Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:11-62433 Connie Schultz

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/02/16, 9/6/16, 10/11/16

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 62

Tentative Ruling:

Tentative ruling for 11/8/16 (same as for 8/2/16, 9/6/16, and 10/11/16):
Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

This hearing has been continued by stipulation (dkt. 65) and again at the movant's oral request at the hearings on 9/6/16 and 10/11/16 (apparently to see if an adequate protection order can be worked out). The tentative ruling remains as follows:

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

CONT... Connie Schultz

Chapter 13

Party Information

Debtor(s):

Connie Schultz

Represented By
Edmond Nassirzadeh

Movant(s):

The Bank of New York Mellon FKA

Represented By
Erica T Loftis
Mark D Estle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:13-15326 Sandra Sunni Germaine

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/27/16, 10/11/16

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 54

Tentative Ruling:

Tentative Ruling for 11/8/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the status of their negotiations.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/11/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 9/27/16 hearing on the motion, this court was persuaded to continue this hearing based on the representations of the debtor's counsel regarding attempted notice to the movant, miscommunications regarding payments, and the anticipated influx of substantial funds with which to cure arrears. This court ordered the debtor to provide notice of the continued hearing via email and U.S. mail, and the filed proof of service (dkt. 57) shows both notice via NEF and U.S. mail. There is no tentative ruling, but the parties should be prepared to address the status of their negotiations.

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CONT... Sandra Sunni Germaine

Chapter 13

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/27/16:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Sandra Sunni Germaine

Represented By
Gaurav Datta

Movant(s):

U.S. Bank National Association

Represented By
Gerald S Kim
Marisol A Nagata
Brandye N Foreman

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

CONT... Sandra Sunni Germaine

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:15-22653 Juan Sanchez

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/31/16, 7/5/16, 9/6/16

SETERUS, INC
VS
DEBTOR

Docket 33

*** VACATED *** REASON: Withdrawal of motion filed on 10/27/2016
(dkt. 44)

Tentative Ruling:

Party Information

Debtor(s):

Juan Sanchez

Represented By
Rebecca Tomilowitz

Movant(s):

Seterus, Inc., as the authorized

Represented By
Darren J Devlin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:16-24198 Annette Paula Williams Reed

Chapter 13

#15.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Grant, subject to the following conditions, and also subject to any opposition at the hearing. Appearances required.

After the hearing date the Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this court provides the foregoing simple process for reconsideration.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

CONT... Annette Paula Williams Reed

Chapter 13

Party Information

Debtor(s):

Annette Paula Williams Reed

Represented By
S Renee Sawyer Blume

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:16-22722 Cecilia Morales

Chapter 13

#16.00 **[CASE DISMISSED ON 10/28/16]**

Cont'd hrg re: Motion for relief from stay [UD]
fr. 11/1/16

GROUP X ROSEMEAD PROPERTIES, LP
VS
DEBTOR

Docket 8

*** VACATED *** REASON: Withdrawal of motion filed on 11/02/2016

Tentative Ruling:

Party Information

Debtor(s):

Cecilia Morales

Pro Se

Movant(s):

Group X Rosemead Properties, LP

Represented By
Helen G Long

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:15-25545 James B Williams

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/1/16

DEUTSCHE BANK NATIONAL TRUST
vs
DEBTOR

Docket 128

Tentative Ruling:

Tentative Ruling for 11/8/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 11/1/16 hearing on this matter, this Court granted a continuance in order to allow the parties time to discuss a possible adequate protection agreement. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/1/16:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the

**United States Bankruptcy Court
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Los Angeles
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

CONT... James B Williams

Chapter 13

automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

James B Williams

Represented By
Claudia L Phillips

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:14-22500 Walter Alfred Williams and Janice Joyce Pierce

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/1/16

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 46

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 48).**

Tentative Ruling:

Party Information

Debtor(s):

Walter Alfred Williams

Represented By
Kahlil J McAlpin

Joint Debtor(s):

Janice Joyce Pierce

Represented By
Kahlil J McAlpin

Movant(s):

Deutsche Bank National Trust

Represented By
Gagan G Vaideeswaran
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:16-18028 Enrique Peralta and Rosa Estrada

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 11/1/16

WELLS FARGO BANK
VS
DEBTOR

Docket 29

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection agreement (dkt. 39).**

Tentative Ruling:

Party Information

Debtor(s):

Enrique Peralta

Represented By
Thomas B Ure

Joint Debtor(s):

Rosa Estrada

Represented By
Thomas B Ure

Movant(s):

Wells Fargo Bank, N.A. dba Wells

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:16-22180 Jin Soo Moon

Chapter 13

#20.00 Cont'd hrg re: Motion for relief from stay [UD]
fr. 11/1/16

DAILY INVESTMENT CO
vs
DEBTOR

Docket 8

Tentative Ruling:

Tentative Ruling for 11/18/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the issues regarding service addressed in the tentative ruling for 11/1/16 (reproduced below).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/1/16:

Grant in part and continue in part to 11/8/16 at 10:00 a.m. as set forth below.
Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under

**United States Bankruptcy Court
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

CONT... Jin Soo Moon

Chapter 13

11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Relief applicable to future bankruptcy cases ("in rem" relief).

As to the requested "*in rem*" relief, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the documents through which the movant asserts its interest in the property (*i.e.*, the lease). Reasons: Judge Bason has due process concerns about granting *in rem* relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Cheran Moon.

Option for shortened time: This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Jin Soo Moon

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

CONT... Jin Soo Moon

Chapter 13

Movant(s):

Daily Investment Co.

Represented By
Joseph Cruz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

10:00 AM

2:13-15238 Frank Narvaez and Rosemarie Quijano Valdez-Narvaez

Chapter 13

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/27/16, 10/4/16, 11/1/16

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 72

***** VACATED *** REASON: This court has already issued its order
regarding the parties' adequate protection agreement (dkt. 84).**

Tentative Ruling:

Party Information

Debtor(s):

Frank Narvaez

Represented By
Javier H Castillo

Joint Debtor(s):

Rosemarie Quijano Valdez-Narvaez

Represented By
Javier H Castillo

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

11:00 AM

2:15-27153 Brian Lee

Chapter 7

#1.00 Hrg re: Motion to Withdraw as Debtor's Bankruptcy Counsel

Docket 130

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Brian Lee

Represented By
Michael Jay Berger

Trustee(s):

David A Gill (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

11:00 AM

2:16-12679 Michael R Totaro

Chapter 11

Adv#: 2:16-01387 Totaro v. Wood et al

#2.00 Status conference re: Complaint for breach of oral contract; breach of fiduciary duty; fraud; conversion; and recovery of estate property

Docket 1

***** VACATED *** REASON: Another summons issued on deft. Robert Wood on 9/27/16; Reset to 11/29/16 at 11:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael R Totaro

Represented By
Martina A Slocomb

Defendant(s):

AirWell Water, Inc.

Pro Se

Robert Wood

Pro Se

Plaintiff(s):

Michael R Totaro

Represented By
Martina A Slocomb

**United States Bankruptcy Court
Central District of California
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Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

2:16-23170 Matthew Edward Wiltsey

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 7

***** VACATED *** REASON: Case dismissed (dkt. 24)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Matthew Edward Wiltsey

Represented By
Daren M Schlecter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

2:16-21882 Paul Arthur Johnson

Chapter 11

#2.00 Hrg re: U.S. Trustee Motion to dismiss or convert case

Docket 23

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether the debtor has cured the reporting and compliance deficiencies set forth in the U.S. Trustee's motion (dkt. 23).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Paul Arthur Johnson

Represented By
Thomas B Ure

**United States Bankruptcy Court
Central District of California
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Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

2:16-22758 MC Pharmacy, Inc.

Chapter 11

#3.00 Hrg re: U.S. Trustee Motion to dismiss or convert case

Docket 18

Tentative Ruling:

See tentative ruling for chapter 11 status conference (11/8/16, 1:00 p.m., calendar no. 4).

Party Information

Debtor(s):

MC PHARMACY, INC.

Represented By
Justin Lynch

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

2:16-22758 MC Pharmacy, Inc.

Chapter 11

#4.00 Status conference re: Chapter 11 case

Docket 6

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) U.S. Trustee's motion to dismiss or convert (dkt. 18). The debtor has failed to oppose the motion. In addition to numerous deficiencies in financial reporting, insurance, etc., the U.S. Trustee reports that the debtor is a suspended corporation. In addition, the debtor's status report (dkt. 26) vaguely asserts that contracts with all of its (disclosed) creditors are "voidable" but fails to state on what grounds. In addition, the debtor does not appear to be diligently prosecuting this case (see below). Why should this case not be dismissed or converted?

(b) Cash collateral motion(s). In its case status report (dkt. 26), the debtor states its intention to file cash collateral motions and/or stipulations "as needed." Does any creditor have a security interest in any of the debtor's cash collateral? The debtor's bankruptcy schedules (dkt. 23) appear to list several creditors with perfected UCC-1 security interests. Has the debtor been using cash collateral without court authority? As of the preparation of this tentative ruling (10/28/16), no cash collateral motion has been filed. Why not?

(c) Accuracy of reporting. The debtor's balance sheet (dkt. 25) lists an account with Bank of America, but no such account is listed in the debtor's schedules. Additionally, the balance sheet states that the debtor's year to date income is \$21,131.70 (as of 8/31/16) but in its Statement of Financial Affairs ("SOFA," dkt. 23) the debtor lists year to date income totaling \$2,410,763. What is the debtor's explanation for this apparent discrepancy? The SOFA also lists Vanessa Ly as the debtor's "Officer" but does not specify her position or the nature or percentage of her or Alan Ly's equity ownership. The debtor's bankruptcy schedules (dkt. 23) list very few creditors - apparently just secured creditors and possible priority tax creditors in

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Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

CONT... MC Pharmacy, Inc.

Chapter 11

unspecified dollar amounts. What about vendors, customers, employees, and other possible creditors?

(d) No application to employ bankruptcy counsel. The debtor's status report (dkt. 26, filed 10/26/16) states that an employment application was (will be) filed for its general bankruptcy counsel on 10/27/16, but no such application appears on the docket. Why not?

(e) Monthly Operating Reports. The debtor has not filed the monthly operating report for September 2016, which was due on 10/15/16. Why not?

(f) Confidential/health information. The debtor's status report (dkt. 26) and SOFA (dkt. 23) both assert that the debtor does not hold any confidential consumer information and is not a health care business. What analysis has the debtor (and its counsel) conducted to make these conclusions? Does the debtor not have any records of confidential prescriptions?

(g) Payroll motion. The debtor's status report (dkt. 26) asserts that employees were fully compensated at the time this case was filed. Really? Were there no outstanding checks? Were there no services performed after the last payroll check (or last cash payment)?

(2) Deadlines/dates. This case was filed on 9/28/16. If this case is not dismissed or converted, this court's tentative ruling is to set the following deadlines.

(a) Bar date: 1/30/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 2/13/17 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/13/16 at 1:00 p.m., *brief* status report due 12/6/16.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

1:00 PM

CONT... MC Pharmacy, Inc.

Chapter 11

Debtor(s):

MC PHARMACY, INC.

Represented By
Justin Lynch

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

2:15-24588 Jeong Hee Choi

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/27/15, 11/3/15, 12/15/15, 1/19/16, 2/23/16,
4/5/16, 6/7/16, 9/6/16, 10/11/16

Docket 1

Tentative Ruling:

Tentative Ruling for 11/8/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues (whether to authorize service of the latest proposed disclosure statement, dkt. 160, and plan, dkt. 159). There are issues with these documents which this Bankruptcy Court will review orally at the hearing.

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement*: if this case is not converted or dismissed at the status conference, 12/6/16 deadline to file (but NOT serve) further amended draft plan and disclosure statement addressing the issues set forth on the record at the hearing.

(c) Continued status conference: if this case is not converted or dismissed at the status conference, 1/10/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/11/16:

Appearances required by counsel for the debtor but telephonic appearances

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Tuesday, November 08, 2016

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1:00 PM

CONT... Jeong Hee Choi

Chapter 11

are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues (whether to authorize service of the latest proposed disclosure statement, dkt. 155, and plan, dkt. 154)

(a) Monthly net income after plan payments. Exhibit C shows the debtor will have \$773.04 in income left over every month after her proposed plan payments have been made. See dkt. 155, PDF p. 7, line 12. Additionally, the debtor requests \$187.81/mo. for an emergency fund and trustee fees. See Endnote 1 (dkt. 155, PDF p. 21). Why should the debtor be permitted to retain nearly \$1,000/mo. when her general unsecured creditors are only receiving 5% of their claims?

(b) Class 2B: Section 1111(b) election. Exhibit E has not been completely filled out. Under Class 2B, the debtor has not completed the "at least present value" portion of the section 1111(b) election - she has provided no interest rate and the proposed monthly payments are showing up on the form as a negative number: (\$108.33).

Additionally, the debtor has proposed paying the full amount of Class 2B over 40 years at an interest rate of just 3.75%, with a \$387,000 balloon payment at the end of 40 years. As stated in this court's 9/6/16 tentative ruling (reproduced in full, below), such a substantial balloon payment increases the risk of the debtor's nonpayment and presumably requires a higher interest rate to arrive at a present value equal to the current value of the property.

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement*: 10/25/16 deadline to file (but NOT serve) further amended draft plan and disclosure statement addressing the issues set forth above.

(c) Continued status conference: 11/8/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for

**United States Bankruptcy Court
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Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

CONT... **Jeong Hee Choi**
disposition at this hearing.

Chapter 11

Tentative Ruling for 9/6/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues (whether to approve the disclosure statement, dkt. 126, and confirm the proposed plan, dkt. 125):

(a) Service of voting package? The proof of service (dkt. 137) lists very few parties in interest. Were all creditors served?

(b) Lack of favorable votes? The ballot summary (dkt. 143) is not accompanied by copies of ballots, and in any event it appears that no class accepted the plan by the requisite majorities (11 U.S.C. 1126(c)) although the debtor makes an opaque reference to the possibility of another favorable vote (after the deadline?). Therefore the debtor does not appear to qualify for confirmation under 1129(a) or (b). See 11 U.S.C. 1129(a)(8) & (10) and 1129(b).

(c) Objection by BONY (dkt. 141). The tentative ruling is that BONY would be entitled to a 5% interest rate if it had not made its election under 11 U.S.C. 1111(b), but having made that election it is entitled to (i) the full dollar amount of its claim over time with (ii) a present value equal to the value of its collateral, and with a larger number of dollars being paid it may be that the interest rate can be reduced, not increased (although that depends on how long the debtor proposes to make payments, and other factors). Balloon payments are not outright prohibited, but they tend to increase the risk and may require a higher interest rate.

(d) Feasibility. The debtor asserts that \$30,000 will be contributed to fund payments on the effective date. What is the evidence of that? The debtor's budget is very thin, which calls into question the feasibility of the plan (11 U.S.C. 1129(a)(11)). These issues can be addressed, if relevant, after an amended plan and disclosure statement, addressing BONY's section 1111(b) election, has been filed - if appropriate, this court can set an evidentiary hearing and associated deadlines.

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

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(b) Plan/Disclosure Statement*: 9/20/16 deadline to file (but NOT serve) amended draft plan and disclosure statement in view of BONY's section 1111(b) election.

(c) Continued status conference: 10/4/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/7/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues:

(a) Amended Plan/Disclosure Statement (timely filed 4/12/16, dkts.125, 126). It appears that the debtor has addressed the issues previously noted in this Court's 4/5/16 tentative (included below).

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dk. 81).

(b) Plan/Disclosure Statement*: this court has reviewed the proposed Plan (dk. 125) and Disclosure Statement (dk. 126) and anticipates setting the following deadlines: 6/10/16 for the plan proponent to lodge Judge Bason's form of order authorizing service of the relevant documents and setting deadlines; 9/6/16 at 1:00 p.m. for the combined hearing on approval of the Disclosure Statement and confirmation of the Plan (with the court to set typical deadlines for objections etc.).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/5/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues:

(a) Plan/Disclosure Statement (3/4/16 (timely filed, dkt. 122, 123).

(i) Monthly income. The debtor's cash flow projections result in a negative balance of \$234,553.19 (see dkt. 122, at PDF p. 7). The net income of \$6 listed by the debtor does not make sense. The debtor's proposed monthly plan payment is comprised of two mortgage payments of \$3,098.41 and \$1,504.30 to BNY Mellon, and payments to general unsecured creditors of \$629.62, for a total of \$5,232.33 (*id.*). However, the debtor appears to have double-counted the mortgage payments: first, in the debtor's calculation of total monthly income, since the debtor's schedules I and J already take into account the rental income from the two properties, and then again in the debtor's calculation of the proposed payment plan.

(ii) New value. The \$30,000 Church Contribution should be listed in Exhibit C.

(iii) Two periods. Why does the debtor's plan include two periods (A and B) that seem to propose the same treatment of creditors? (see dkt. 122, at PDF p. 7).

(b) MORs. The debtor's most recent monthly operating report (dkt. 121) attempts to address the issues raised in this Court's previous tentative ruling (e.g., dkt. 115 at PDF p.61, where the debtor appears to have listed the total balance owed, instead of listing monthly mortgage amounts, the number of unpaid monthly payments, and the total postpetition amount unpaid). The debtor appears to have corrected this issue (see dkt. 121, PDF p.16). However, the secondary issue was that the debtor had not revealed the monthly amount owed to PNC Bank N.A. - she stated "Disputed" instead of a monthly amount). The debtor has now omitted PNC Bank N.A. from this list (*id.*). Does the debtor owe any monthly amount to PNC Bank N.A.?

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- (2) Deadlines/dates. This case was filed on 9/21/15.
- (a) Bar date: 1/8/16 (timely served, dkt. 81).
 - (b) Plan/Disclosure Statement*: file amended documents by 4/12/16.
(DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 6/7/16 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/23/16:

Continue to 4/5/16 at 1:00 p.m. Appearances are not required on 2/23/16.

Reasons:

(1) MORs. The debtor's supplemented and most recent monthly operating reports (dkt. 108, 112, 113, 115) are still needlessly confusing and probably incorrect (e.g., dkt. 115 at PDF p.61 is supposed to list monthly mortgage amounts, the number of unpaid monthly payments, and the total postpetition amount unpaid; but instead the debtor appears to have listed the total balance owed; and the debtor also has not revealed the monthly amount owed to PNC Bank N.A. - she states "Disputed" instead of a monthly amount). Nevertheless, this Court presumes that the debtor's counsel will continue working with the office of the U.S. Trustee to assure that future MORs are correct and less confusing.

- (2) Deadlines/dates. This case was filed on 9/21/15.
- (a) Bar date: 1/8/16 (timely served, dkt. 81).
 - (b) Plan/Disclosure Statement*: In view of the stipulation regarding the value of the Cypress property (dkt. 116), it appears that the debtor may be able to propose a plan of reorganization. Accordingly, the tentative ruling is to set a deadline of 3/4/16 for the debtor to file a draft plan and a draft disclosure statement,

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using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). If counsel for the debtor believes that it is premature to prepare and file a draft plan and draft disclosure statement, then counsel should notify the U.S. Trustee and this Court of an intent to contest this tentative ruling, and then appear at this status conference and address that issue.

(c) Continued status conference: (See the date at the start of this tentative ruling.) No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/19/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Monthly expenditure reporting. The debtor's monthly expenditure reporting continues to be problematic. In the debtor's October MOR, the debtor lists various disbursements totaling \$555 (see dkt. 103, PDF p. 26, repeated at PDF p. 64), but also refers to "petty cash" expenditures of \$497 (*id.* at PDF p. 26) and \$447 (*id.* at PDF p. 64). Where are those figures coming from? What was the nature of those petty cash expenditures?

Additionally, the expenditures reported by the debtor appear to deviate from the debtor's court-approved budget (dkt. 6, 76). The budget reported expenses of \$100/mo. for rent and \$110/mo. for Medicare, neither of which are appearing on the debtor's MORs. Conversely, the budget did not provide for \$50/mo. in religious donations, which the debtor appears to be paying every month. Finally, although the debtor reported in the budget that her monthly mortgage payments to Nationstar and Shell Point included costs for maintenance and insurance (dkt. 6, PDF p. 9), based upon her MOR

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reporting it appears that those costs are in fact separate from her mortgage payments. See dkt. 104, PDF p. 49 (separate home insurance payment of \$75.89); p. 57 ("home expenditures" of \$100 listed under petty cash transactions).

Finally, although the debtor has opened cash collateral bank accounts for each of her real properties, it appears the debtor is continuing to use her general DIP account for all receipts and disbursements, including those related to her real properties. Why is the debtor not segregating her cash collateral funds in their designated accounts?

How can the debtor propose a feasible plan of reorganization in these circumstances? Why should this court not convert or dismiss this case?

(2) Deadlines/dates. This case was filed on 9/21/15. If this court is persuaded not to convert or dismiss this case:

- (a) Bar date: 1/8/16 (timely served, dkt. 81).
- (b) Plan/Disclosure Statement*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
- (c) Continued status conference: 2/23/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/15/15:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(A) Monthly expenditure reporting. The debtor's October monthly operating report disclosed the debtor's monthly expenditures in one lump sum (\$1,052), describing them only as "personal expenses." See dkt. 93, PDF p.

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26. Reporting the debtor's monthly expenses in this fashion is inadequate, as it does not allow the court or the United States Trustee's office to ascertain whether the debtor is complying with the court-approved budget (dkt. 6, 76).

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 1/19/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/3/15:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) UST motion to dismiss/compliance. Has the debtor complied with the requirements of the Office of the United States Trustee?

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (debtor to serve bar date order no later than 11/3/15).

(b) Plan/Disclosure Statement*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/15/15 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/27/15:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. The debtor is directed to serve and lodge proposed orders on the following motions via LOU within 7 days after the hearing date.

(a) Utility motion. Grant on a final basis on the same terms as the interim approval (dkt. 65).

(c) Cash collateral (dkt.9) and budget (dkt.6) motions. Grant the motions and approve the budgets proposed by the debtor (e.g., dkt. 6, PDF p. 9), on a final basis, but subject to adjustment as appropriate (e.g., upon a proper motion by a lienholder for relief from the automatic stay this court might - or might not - be persuaded to increase adequate protection payments).

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/3/15 at 11:00 a.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 10/27/15:

This court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Jeong Hee Choi

Represented By
Frank J Alvarado

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2:16-13813 Susan Elizabeth Hernandez

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#6.00 Cont'd hrg re: Motion in Individual Ch 11 Case for Order
Approving A Budget for Interim Use of The Debtor's cash
and Postpetition Income
fr. 5/31/16, 8/2/16, 9/27/16

Docket 29

Tentative Ruling:

Tentative Ruling for 11/8/16:

See tentative ruling for chapter 11 status conference (11/8/16, 1:00 p.m.,
calendar no. 7).

Tentative Ruling for 9/27/16:

See tentative ruling for chapter 11 status conference (9/27/16, 1:00 p.m.,
calendar no. 7).

Tentative Ruling for 8/2/16:

See tentative ruling for chapter 11 status conference (8/2/16, 1:00 p.m.,
calendar no. 8).

Tentative Ruling for 5/31/16:

See tentative ruling for chapter 11 status conference (5/31/16, 1:00 p.m.,
calendar no. 12).

Party Information

Debtor(s):

Susan Elizabeth Hernandez

Represented By
Onyinye N Anyama

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#7.00 Cont'd status conference re: Chapter 11 case
fr. 5/3/16, 5/10/16, 5/31/16, 8/2/16, 9/27/16

Docket 12

Tentative Ruling:

Tentative Ruling for 11/8/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Budget motion. This court continued the hearing on the debtor's budget motion on 8/2/16 and 9/27/16 pending the sale or other resolution of the debtor's high car payments. Has the debtor made any progress on this issue? If not, what remedies should this court impose?

(2) Deadlines/dates. This case was filed on 3/25/16.

(a) Bar date: 8/19/16 (timely served, dkt. 58).

(b) Plan/Disclosure Statement*: file by 12/9/16 (per stipulation and order, dkt. 69, 71) using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 1/10/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent,

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then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/27/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Budget motion. This court continued the hearing on the debtor's budget motion pending the sale or other resolution of the debtor's high car payments. Has the debtor made any progress on this issue? If not, what remedies should this court impose?

(2) Deadlines/dates. This case was filed on 3/25/16.

(a) Bar date: 8/19/16 (timely served, dkt. 58).

(b) Plan/Disclosure Statement*: file by 12/9/16 (per stipulation and order, dkt. 69, 71) using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 11/8/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/2/16:

Appearances required by counsel for the debtor but telephonic appearances

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are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion. In view of the debtor's declaration regarding car expenses (dkt. 63), this Court's tentative ruling is (again) to grant only interim authorization for the debtor's budget, pending the proposed car sale or other resolution of the high car payments. This Court will hold a continued hearing on the budget motion concurrently with the continued status conference.

(b) Cash collateral motion. The debtor has now provided notice of this final hearing on cash collateral (dkt. 53). Accordingly, the tentative ruling is to grant the debtor's cash collateral motion on a final basis, on the same terms as provided in this Court's prior orders (see dkt. 36, 51). The debtor is directed to lodge a proposed order within seven days after the hearing.

(c) Use of petty cash. In the debtor's recent monthly operating reports (dkt. 61, 62), she discloses substantial payments using cash. For example, the debtor used \$403 on 6/6/16 in cash for "Household Expenses" (dkt. 62, p. 2). There are a number of other cash payments, as well. While using cash may be perfectly legitimate, it is also possible that it is an effort to avoid scrutiny of questionable expenses. The debtor should be prepared to address why she is using cash and not providing more detail as to the cash expenditures.

(d) Status of loan modification. The debtor states that she is working on a loan modification with Select Portfolio Servicing, Inc. What is the status of these efforts?

(2) Deadlines/dates. This case was filed on 3/25/16.

(a) Bar date: 8/19/16 (timely served, dkt. 58).

(b) Plan/Disclosure Statement*: file by 9/9/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for

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such objections are established).

(c) Continued status conference: 9/27/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/31/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Failure to serve the bar date order. It does not appear that the debtor served the bar date order (dkt. 32) by 5/10/16 (or at all, prior to the preparation of this tentative ruling). Does this Court need to set a new bar date and issue a new bar date order?

(b) Cash collateral. This Court has prepared a separate tentative ruling on the debtor's cash collateral motion (see 5/31/16, matter number 11 at 1:00 p.m.).

(c) Budget. The debtor should be prepared to address the following issues related to her proposed budget (dkt. 29):

(i) Inconsistencies with bankruptcy schedules. This Court has reviewed the debtor's proposed budget (dkt. 29, Ex. A, PDF p. 9). There appear to be certain inconsistencies with the debtor's bankruptcy schedules I and J (dkt. 1, PDF pp. 39-42). For example, in her scheduled J, the debtor states that her cable bill and cell service are a \$59 and \$110 per month, respectively, but in her budget motion she states that these expenses are each \$180 per month. What is the explanation of this difference?

(ii) Unreasonable car payment? Is the proposed car payment of \$649 per month for a single car (as it appears to be based on the debtor's bankruptcy schedule J)? Insurance is projected at \$240 per month. Is this a total expense of nearly \$900 per month for a single car reasonable for a debtor in bankruptcy?

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(2) Deadlines/dates. This case was filed on 3/25/16.

(a) Bar date: 7/29/16 (Not yet served, and probably will need to be re-set and then served - see above)

(b) Plan/Disclosure Statement*: file by 9/9/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 8/2/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/10/16:

Continue to 5/31/16 at 1:00 p.m. to be concurrent with (a) the budget motion (dkt.29) and (b) the continued hearing on the motion for authority to use cash collateral (dkt.20, 27). Appearances are not required on 5/10/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/3/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves

but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.",

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"Instructions/Procedures").

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(1) Current issues. This Court has reviewed the debtor's status report (dkt. 24).

(a) First day motions. The debtor has filed an application to employ general bankruptcy counsel (dkt. 17), a motion for use of cash collateral (dkt. 20, set for hearing 5/10/16), and a motion to approve a stipulation regarding the use of cash collateral (dkt. 27, no hearing requested, and therefore presumably to be addressed at the hearing on the motion for use of cash collateral). When does the debtor anticipate filing a budget motion?

(b) Loan modification? What is the status of the debtor's possible loan modification?

(2) Deadlines/dates. This case was filed on 3/25/16.

(a) Bar date: 7/29/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/9/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 5/10/16 at 1:00 p.m. (to be concurrent with the hearing on cash collateral). No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Debtor(s):

Susan Elizabeth Hernandez

Represented By
Onyinye N Anyama

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2:16-14355 MEDomics, LLC

Chapter 11

#8.00 Hrg re: Application For Order (Nunc Pro Tunc and Prospective)
Authorizing Insider Compensation

Docket 166

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). The parties should be prepared to address whether creditor Wells Fargo will agree to the settlement between the Chapter 11 Trustee, the US Trustee, and Dr. Sommer setting his monthly compensation at \$10,833.33. See the response to Wells Fargo Bank's objection to application for order approving insider compensation, and the earlier objection of the U.S. Trustee (see dkt. 169, 172, 182). If no settlement has been reached, the parties should be prepared to address the factual and legal circumstances in favor of or against a change in compensation.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa I Fogel

Trustee(s):

David M Goodrich (TR)

Represented By
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

2:16-21552 Antonio Pereyra Garcia

Chapter 11

#9.00 Cont'd status conference re: Chapter 11 case
fr. 9/27/16, 10/11/16

Docket 7

***** VACATED *** REASON: Rescheduled to November 29, 2016 at 1:00
p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Antonio Pereyra Garcia

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

2:16-19232 Ronald Carvalho Leao

Chapter 11

#10.00 Cont'd status conference re: Chapter 11 case
fr. 8/9/16, 9/6/16, 10/11/16

Docket 7

Tentative Ruling:

Tentative Ruling for 11/8/16:

Continue as set forth below. Appearances are not required on 11/8/16.

(1) Current issues. This court has no issues that it chooses to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 7/12/16.

(a) Bar date: 10/28/16 (timely served, dkt. 32).

(b) Plan/Disclosure Statement*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 12/13/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 10/11/16:

Appearances required by counsel for the debtor but telephonic appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

CONT... Ronald Carvalho Leao

Chapter 11

are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion. At the 9/6/16 status conference, this court raised concerns regarding the debtor's excessive communications expenses (see 9/6/16 tentative ruling, reproduced below). The docket does not reflect any amended budget. What remedy should this court impose?

(b) Cash collateral motion. This court's tentative ruling is to approve the cash collateral motion on a final basis, on the same conditions established for interim use of cash collateral (dkt. 54).

(2) Deadlines/dates. This case was filed on 7/12/16.

(a) Bar date: 10/28/16 (timely served, dkt. 32).

(b) Plan/Disclosure Statement*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 11/8/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/6/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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CONT... Ronald Carvalho Leao

Chapter 11

(1) Current issues.

(a) Budget motion. The debtor's expenses set forth in his proposed budget (dkt. 18, PDF p. 8) for his home phone (\$250) and his cell phone (\$320) seem unusually high, particularly for a family with no disclosed dependents. Even assuming that these costs include internet service, this court is concerned that the debtor is paying too much for these services. Why are the debtor's communications costs so high?

(b) Unauthorized payment of prepetition debt? The debtor's opposition (dkt. 48, p.3:1-5) to the UST's motion to dismiss (dkt. 38) appears to state that the debtor paid his bank prepetition debts (overdrafts). If so, what remedy should this court impose for that unauthorized payment of one creditor ahead of others?

(c) UST compliance? Is the debtor current on quarterly UST fees? Have other compliance issues been adequately addressed?

(2) Deadlines/dates. This case was filed on 7/12/16.

(a) Bar date: 10/28/16 (timely served, dkt. 32).

(b) Plan/Disclosure Statement*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/13/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
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Tuesday, November 08, 2016

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1:00 PM

CONT... Ronald Carvalho Leao

Chapter 11

Tentative Ruling for 8/9/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Cash collateral. The Bankruptcy Code prohibits the use of cash collateral without court approval (or consent of the secured creditor, but typically that creditor will not consent without provisions that require court approval). See 11 U.S.C. 363(c). Debtors generally must use cash collateral very soon, for everything from paying utilities to adequate protection payments. For that reason, Judge Bason's posted procedures provide automatically shortened time. Why did counsel for the debtor self-calendar the motion (dkt. 17) for 9/6/16 when this case was filed on 7/12/16? Is the debtor violating the Bankruptcy Code?

(b) Lease of Theresa Street Property. In his Schedule G, the debtor attests that the lessee for the Theresa Street property is under a one year lease. See dkt. 1, PDF p. 36. In the case status report, the debtor claims the lease is month to month. See dkt. 20, PDF p. 5. Which is it?

(2) Deadlines/dates. This case was filed on 7/12/16.

(a) Bar date: 10/28/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

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CONT... Ronald Carvalho Leao

Chapter 11

Debtor(s):

Ronald Carvalho Leao

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

2:16-19232 Ronald Carvalho Leao

Chapter 11

#11.00 Cont'd hrg re: Motion to avoid junior lien on principal residence with creditor JP Morgan Chase and Trojan Capital Investments, LLC [11 U.S.C. section 506 (d)]
fr. 9/6/16, 10/11/16

Docket 24

Tentative Ruling:

Tentative Ruling for 11/8/16:

Grant, based on the motion papers and junior lienholder's lack of filed appraisal, as required in the adopted tentative rulings for 9/6/16 and 10/11/16 (reproduced below), as modified by the parties' approved stipulation to continue the hearing date (dkt. 63, 64). Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 10/11/16:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the status of their negotiations regarding informal discovery and other issues raised in the junior lienholder's opposition, as directed by this court in its adopted 9/6/16 tentative ruling on the motion (reproduced below).

Additionally, this court notes that the junior lienholder has not filed its own appraisal as of the deadline set for doing so by this court in its adopted 9/6/16 tentative ruling (*i.e.*, two weeks prior to this hearing). Has the junior lienholder waived or forfeited its opposition?

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for

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CONT... **Ronald Carvalho Leao**
disposition at this hearing.

Chapter 11

Tentative Ruling for 9/6/16:

Continue to 10/11/16 at 1:00 p.m. to address the following issues.
Appearances are not required on 9/6/16.

Reasons:

(1) Appraisal; date of valuation

The junior lienholder has requested (dkt. 31) additional time to obtain an appraisal. The debtor is directed to provide reasonable access for that purpose. The junior lienholder is directed to file and serve the appraisal at least two weeks before the continued hearing. Note: Judge Bason's tentative ruling is to require valuations *at or near the petition date*. See *In re Gutierrez*, 503 B.R. 458 (Bankr. C.D. Cal. 2013).

At the continued hearing the parties should address how they propose to resolve their disputes - e.g., (i) with an evidentiary hearing; (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through mediation, or (iv) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706.

(2) Other issues in opposition

The parties are directed to meet and confer regarding informal discovery and other means to address the issues raised in the opposition.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Ronald Carvalho Leao

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
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1:00 PM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#12.00 Cont'd hrg re: Objection to Claim Number 4
by Claimant Internal Revenue Service
fr. 9/27/16

Docket 54

***** VACATED *** REASON: Voluntary dismissal filed on 10/27/16 [dkt
78]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Glynder Lucas Striggs

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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1:00 PM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#13.00 Cont'd status conference re: Chapter 11 case
fr. 5/31/16, 7/19/16, 9/13/16

Docket 6

Tentative Ruling:

Tentative Ruling for 11/8/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Amended Chapter 11 Plan and Disclosure Statement (dkt. 74, 75). There are issues with these documents which this Bankruptcy Court will review orally at the hearing.

(b) Monthly operating reports. The debtor's court approved budget (dkt. 19) and the budget attached to her amended chapter 11 disclosure statement (dkt. 74, PDF p. 13) show various typical monthly expenses such as transportation costs, utilities, and food. The expenses included in her budgets submitted to this court are either not reflected in her MORs for August and September 2016 (dkt. 65 and 73, respectively) or are reflected, but in much smaller amounts than budgeted. Is the debtor reporting all of her monthly expenses in her MORs? If not, why not?

Additionally, the MORs appear to reflect that the debtor is receiving less than her budgeted monthly income (\$1,800/mo.) from her job as a real estate professional. In August 2016, the debtor reported receipts of \$970.01; in September 2016, receipts of \$1,000.

Based on the reporting in the debtor's two most recent MORs, this court is concerned that the debtor may not have sufficient disposable income with which to fund her proposed chapter 11 plan.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: Deadline of 12/6/16 to file (but NOT serve) an amended draft plan and disclosure statement if

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CONT...

Glynder Lucas Striggs

Chapter 11

sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 1/10/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/13/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Chapter 11 Plan and Disclosure Statement (dkt. 59, 58). There are numerous issues with these documents, which this Bankruptcy Court will review orally at the hearing.

(b) Orders on budget and cash collateral motions. On July 19, 2016, this court held continued hearings on the debtor's motion for use of cash collateral (dkt. 18) and budget motion (dkt. 19). The motions were granted on a final basis, and the court's adopted tentative ruling directed the debtor to lodge proposed orders on those motions within seven days of the hearing date. This court has reviewed the case docket and its pending lodged orders, and it appears no such orders have been lodged.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: Deadline of 10/11/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 11/8/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status

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CONT... **Glynder Lucas Striggs**
conference).

Chapter 11

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/19/16:

Appearances are not required on 7/19/16.

(1) Current issues.

(a) Cash collateral motion (dkt. 18). Grant on a final basis, on the same terms set forth in this court's order granting interim use of cash collateral (dkt. 37).

(b) Budget motion (dkt. 19). Grant on a final basis.

The debtor must lodge proposed orders on each of the foregoing motions within seven days.

(2) Deadlines/dates. This case was filed on 4/20/16

(a) Bar date: Bar date: 7/29/16 (timely served, dkt. 39).

(b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/13/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
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Hearing Room 1545

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CONT... Glynder Lucas Striggs

Chapter 11

Tentative Ruling for 5/31/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 23).

(a) Prior failed case. The debtor's prior case (no. 2:14-bk-14065-NB) was a chapter 13 case that was dismissed because of plan infeasibility due to the objections by Wells Fargo, and claims by the IRS, FTB, and L.A. County Tax Collector.

(b) Debtor's real property

(i) Inconsistent rental income amount. This Court notes that the debtor's amended schedule G reflects a monthly rental of \$2,200 (dkt. 13, p.10), which was originally listed as \$1,500 per month (dkt. 1, p.36). However, the debtor's original schedule I originally listed the debtor's net income from rental property as \$2,400 (dkt. 1, p.39). The debtor's amended schedule I now lists net income from rental property as \$2,200 (dkt. 13, p.12). Although the rental income now appears to be consistent at \$2,200, and schedule G reflects the same lessee, Smark Lyles, is this the correct amount?

(ii) Schedule I. Part 8.a. requires that the debtor attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.

(iii) Motion to Value. The debtor's status report indicates that the debtor intends to file a motion to value the real property. When does the debtor anticipate filing the motion to value?

(c) UST compliance. The United States Trustee has filed a motion to dismiss or convert (dkt. 24). Although the matter has been set for hearing on 6/21/16, the debtor should be prepared to address more generally, why this case in chapter 11 instead of chapter 13. It appears that the debtor is within the debt limits for chapter 13, and chapter 11 typically is far more expensive, so it seems doubtful that the debtor needs or can afford a chapter 11 case.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (DO NOT SERVE notice yet - court will prepare

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CONT...

Glynder Lucas Striggs

Chapter 11

an order after the status conference).

- (b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). This Court is aware that the debtor has requested a much later deadline (dkt. 23, p.4) but this Court is not aware of any reason why so much time is needed. The debtor should be negotiating with secured creditors and other key constituencies already.

- (c) Continued status conference: 7/19/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Glynder Lucas Striggs

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 08, 2016

Hearing Room 1545

1:00 PM

2:15-27706 Macrina Garcia Atanasio-Maldonado and Roberto Andres

Chapter 11

#14.00 Status Conference re: Post confirmation
fr. 12/15/15, 01/05/16, 2/23/16, 04/26/16,
5/31/16, 8/2/16

Docket 9

Tentative Ruling:

Tentative Ruling for 11/8/16:

Continue to 1/31/17 at 1:00 p.m. for the reasons stated in the debtors' post-confirmation status report (dkt. 128). Appearances are not required on 11/8/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/2/16:

Approve the disclosure statement (dkt. 90), confirm the plan (dkt. 89), and set a post-confirmation status conference for 11/8/16 at 1:00 p.m. Appearances are not required on 8/2/16.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling.

The summary of ballots (dkt. 110) shows votes in favor of the plan by all voting classes. One class (2C) has not voted, so 11 U.S.C. 1129(a)(8)(A) is not satisfied, but based on the terms of the plan, and the lack of objection, the tentative ruling is that 11 U.S.C. 1129(b) is satisfied.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/31/16:

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CONT... Macrina Garcia Atanasio-Maldonado and Roberto Andres
Appearances required.

Chapter 11

(1) Current issues. This Court has reviewed the debtors' recent monthly operating report (dkt. 86) and the debtors' amended plan/disclosure statement (dkt. 89, 90) and it appears that this case is progressing appropriately. There are open questions noted in this Court's 4/26/16 tentative ruling (reproduced below): Under Exhibit H, item "5" no longer refers to damages in a suit by the debtors and an open question of whether the debtor will be approved for the assumption of the mortgage in her ex-husband's name - what is the status of those things?

(2) Deadlines/dates. This case was filed on 11/18/15.

(a) Bar date: 2/16/16 (timely served, dkt. 58).

(b) Plan/Disclosure Statement: this Court has reviewed the proposed Amended Plan (dkt. 89) and Disclosure Statement (dkt. 90) and anticipates setting the following deadlines: 6/7/16 for the plan proponent to lodge Judge Bason's form of order authorizing service of the relevant documents and setting deadlines; combined hearing on approval of the Disclosure Statement and confirmation of the Plan concurrent with the continued status conference (below) (with the court to set typical deadlines for objections etc.).

(c) Continued status conference: 7/22/16 at 1:00 p.m. No written status report is required.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 4/26/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Plan/Disclosure Statement (timely filed on 3/15/16, dkt. 73, 74).

(i) Exhibit E. Over \$60,000 is imported from a continuation

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CONT... Macrina Garcia Atanasio-Maldonado and Roberto Andres Chapter 11

sheet to Exhibit F (dkt. 73, at PDF p.11, line 8) but that continuation sheet is missing from the filed document.

(ii) Exhibit H. Certain issues that remain to be resolved: (a) Endnote 2A refers to negotiations regarding the interest rate and terms of repayment on one secured claim, and (b) item "5" refers to damages in a suit by the debtors and an open question whether the debtor will be approved for the assumption of the mortgage in her ex-husband's name. In view of these open items, the tentative ruling is to continue this status conference.

(2) Deadlines/dates. This case was filed on 11/18/15.

(a) Bar date: 2/16/16 (timely served, dkt. 58).

(b) Plan/Disclosure Statement*: Deadline of 6/7/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 6/21/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/23/16:

Continue to 4/26/16 at 1:00 p.m. Appearances are not required on 2/23/16.

Reasons: This court has reviewed the debtors' recent monthly operating reports (dkt. 69, 70) and it appears that this case is progressing appropriately (although the total dollar amount of "household expenses" in dkt. 69 was somewhat high and not broken down into specific items, that was much less so for dkt.70). Accordingly, this court continues the status conference to the above-referenced date and time. The debtors are reminded that a draft of their proposed plan and disclosure statement must be filed by 3/15/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

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If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 1/5/16:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to value 18th Ave. property (dkt. 39). The tentative ruling is to grant the motion. Counsel for the debtor is directed to lodge an appropriate order pursuant to the local rules.

(b) Financial reporting, cash collateral motion, and budget motion. The debtors have attempted to fix the inconsistencies in their prior reporting with a new declaration (dkt. 59). Unfortunately, that declaration itself is internally inconsistent. It asserts that the Lorena Street property now generates rents of \$3,600 per month (dkt. 59, para. 4), but the individual rents listed (*id.*, para. 3) add up to \$3,500 per month (\$1,900 + \$1,000 + \$600 = \$3,500). In addition, although written leases are attached to the declaration, this court is concerned that in view of the constantly fluctuating and inconsistent reporting about rents, it is conceivable that the written amount of rent does not accurately reflect the actual rent (*e.g.*, side payments).

That said, this court has already warned the debtors that if they turn out to be making misrepresentations then they could forfeit their discharge, be subject to sanctions, and other consequences; and there is a risk that investing any more time and resources on this issue will result in a net detriment to creditors. Accordingly, the tentative ruling is to accept (for present purposes) the latest evidence submitted by the debtors as a sufficiently accurate representation of their rental income from the Lorena Street property and the 18th Ave. property.

In addition, at the hearing on 12/15/15 the debtors' counsel explained that at least some of the seemingly inconsistent information recited in the tentative ruling for that hearing is attributable to whether or not escrow payments are included. After the hearing the debtor lodged a proposed interim order that appears to be more accurate, which this court issued (dkt. 46), and the tentative ruling is to authorize the use of cash collateral on a permanent basis subject to Judge Bason's standard conditions for the use of cash collateral (see calendar no. 5, 1/5/16 at 1:00 p.m.).

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Likewise, the tentative ruling is to issue an order approving a budget that is consistent with the latest figures for the debtors' rental income. Counsel for the debtor should lodge an appropriate order.

This court notes that the debtor's latest service list (e.g., dkt. 60) appears to include the Riverside tax authority, and at the hearing on 12/15/15 the debtor's counsel adequately addressed the non-payment of such taxes, at least for present purposes.

(2) Deadlines/dates. This case was filed on 11/18/15.

(a) Bar date: 2/16/16 (timely served, dkt. 43, 58).

(b) Plan/Disclosure Statement*: file by 3/15/15 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/23/16 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 12/15/15:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Cash collateral motion. The revised budgets do not appear to comply with this court's adopted 12/1/15 tentative ruling on the cash collateral motion (dkt. 30), which authorized the debtors' use of cash collateral on an interim basis, conditioned upon the debtors receiving no profit from the properties unless they paid their secured creditors the full monthly amounts owed. The monthly payment to Bayview was listed in the debtors' initial cash collateral budget at \$1,835.93 (dkt. 11 at PDF p. 4), in the debtors' initial Schedule J (dkt. 1, PDF p. 31) at \$1,744.67, and in the debtors' first amended Schedule J (dkt. 13, PDF p. 5) at \$1,835.93. The debtors' second amended

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Schedule J has reduced the payment to \$1,729.19 (dkt. 29, PDF p. 8, line 17c.). This court again raises the issue: in its opposition to the cash collateral motion filed in the debtors' prior chapter 11 case, Bayview asserted it was owed regular monthly mortgage payments of \$2,692.18 (2:15-bk-14048-NB, dkt. 63, PDF p. 4:11-12). The debtors' revised cash collateral budget still appears to pay creditor Bayview less than it is owed on a monthly basis, yet the debtors propose to receive a (small) profit from that property. How can this court approve a cash collateral motion that permits the debtors to receive *any* profit from their real properties while their secured creditors are paid less than they are owed?

The tentative ruling is, if this case is not dismissed or converted, to authorize the continued interim use of cash collateral on the same terms as previously authorized, and a continued hearing concurrent with the continued status conference set forth below.

(b) Inconsistent reporting. The initial Lorena Street property budget attached to the cash collateral motion (dkt. 11, PDF pp. 4, 5) asserted that the property generates rent of \$3,000 per month. The debtors' initial Schedule I (dkt. 1, PDF p. 28) reported monthly rental income of \$3,500 for the Lorena Street property. The debtors then revised their Schedule I to show monthly rental income of \$3,000 for Lorena Street, and a monthly contribution of \$500 from their son (dkt. 13, PDF p. 3). After this court questioned the debtors' budgets at the 12/1/15 hearing on their cash collateral motion, the debtors filed their second amended Schedule I (dkt. 29, PDF p. 3) asserting the monthly rental income is now \$3,600, for total rental income of \$4,800, with no contribution from their son. Yet, the debtors' assert in their case status report that their properties generate total rental income of \$4,500/mo. Dkt. 27, p. 2:21-23.

The debtors' budget motion (dkt. 32) and their second amended Schedule J (dkt. 29, PDF pp. 10-11) appear to show three separate monthly rental payments on the Lorena Street property (\$1,900, \$600 and \$1,100), and two separate monthly rental payments on the 18th Avenue property (\$600 each). These figures would appear to represent a total of five units, with five paying tenants. The debtors' Schedule G (dkt. 1, PDF p. 25) and their status conference report (dkt. 27, PDF p. 6) list only three tenants.

The debtors' current budget also proposes to pay \$220/mo. in real property taxes on the 18th Avenue property. In their amended Schedule D

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(dkt. 28), the debtors list the Riverside County Tax Collector holding a property tax lien in the amount of \$13,556.66. Does the debtors' \$220/mo property tax payment include payments on the tax lien? If not, how do the debtors propose to pay that lien? Why has the amount of the lien remained the same since April 2015? See 2:15-bk-14048-NB, dkt. 31, PDF p. 2. If the debtors were making payments on the lien, the amount should be less than reported in April 2015. Also, why have the debtors not served Riverside County with *any* of the documents they have filed thus far in this case, including the budget motion?

In the debtor's Statement of Financial Affairs (dkt. 1, PDF p. 33), the debtors report rental income of \$25,000 for 2014. However, the debtors' 2014 federal income tax return (dkt. 23) reflects rental income of only \$45,600.

The debtors' second amended Schedule J lists every budget item from their cash collateral budgets under under other "installment or lease payments." Dkt. 29, p. 8, lines 17c. and 17d. Are the debtors paying their cleaning, repair and supply costs in set installments each month?

The debtors' prior case was dismissed, in part, because of the debtors' ongoing inability to provide this court with accurate financial reporting. The issues outlined above demonstrate that the debtors have apparently failed to correct this serious problem since dismissal of their most recent prior case. The debtors must be prepared to explain the discrepancies and inaccuracies in their reporting outlined above, and how they propose to cure their deficient reporting going forward (*i.e.*, providing this court with testimony from their tenants regarding the amount of rent paid by each, copies of leases showing how many tenants reside in the real properties, etc.). If this court is not satisfied by the debtors' explanations at the status conference, this case may be dismissed or converted to chapter 7.

(2) Deadlines/dates. This case was filed on 11/18/15. If this case is not dismissed or converted at the status conference, the parties should be prepared to discuss the following proposed dates and deadlines:

- (a) Bar date: 2/16/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
- (b) Plan/Disclosure Statement*: file by 3/15/15 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a

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later time).

(c) Continued status conference: 1/5/16 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/15/15:

This court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Macrina Garcia Atanasio-

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Roberto Andres Maldonado-Quiroz

Represented By
Anthony Obehi Egbase

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2:14-26361 QTS, INC.

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#1.00 Cont'd status conference re: Chapter 11 Case
fr. 9/16/14, 10/21/14, 11/18/14, 11/25/14, 12/16/14,
01/27/15, 2/3/15, 3/10/15, 5/12/15, 07/21/15, 9/8/15,
10/27/15, 11/17/15, 1/19/16, 2/23/16, 3/8/16, 04/26/16,
5/31/16, 7/5/16, 9/13/16

Docket 1

Tentative Ruling:

Tentative Ruling for 11/8/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties should be prepared to address (1) when to set a continued status conference, for final State Court approval of the parties' settlement agreement referenced in their joint status report (dkt. 510), and (2) whether, if that approval is granted, there will be any outstanding matters to address in this case, or if instead this case may be dismissed based on streamlined procedures, such as a notice by one or more parties of such final settlement approval and/or implementation and lodging of a proposed dismissal order (with the usual service and filing of a notice of lodgment and a brief opportunity to object).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/13/16:

Continue to 11/8/16 at 2:00 p.m. to address the following issues.

Appearances are not required on 9/13/16.

Reasons:

This Bankruptcy Court has continued this matter several times because the parties were still in the process of finalizing the terms of their settlement

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agreement. Now, this court grants a further continuance to allow for a State Court hearing regarding the specified changes to the settlement agreement required by that court. By 10/28/16, the parties must file a brief status report explaining the current status of this matter.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/5/16:

Continue to 9/13/16 at 2:00 p.m. to address the following issues.

Appearances are not required on 7/5/16.

Reasons:

This Court has continued this matter several times because the parties state that they are still finalizing the terms of their settlement agreement. By 8/30/16, the parties must file a brief status report explaining the current status of this matter.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/31/16:

Continue to 7/5/16 at 2:00 p.m. to address the following issues. Appearances are not required on 5/31/16.

Reasons:

On 4/26/16, this Court continued this matter to this date and time to allow the parties time to finalize their settlement and file any motions required for approval of that settlement. The parties' latest status report (dkt. 492) suggests that they are very close to finalizing a settlement. Accordingly, it appears appropriate to continue this matter as set forth above to allow the parties additional time to finalize their settlement.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative

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rulings".

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Tentative Ruling for 4/26/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

On 3/8/16, this Court continued these matters based on the representations of counsel that they had reached a resolution of the substantive consolidation motion and related matters. To facilitate this resolution, the driver creditors have filed a motion for relief from the automatic stay (dkt. 466; see 4/26/16 at 2:00 p.m., cal. no. 11). The tentative ruling is that it is not necessary to obtain this Court's approval of the parties' resolution of this motion as a settlement under Fed. R. Bankr. Proc. 9019, and that, at least in the absence of objections from either the chapter 7 Trustee or any other parties in interest, instead this Court can simply grant relief from the automatic stay, issue orders that the other matters on calendar for today are moot, and direct the Chapter 7 Trustee to proceed with winding up this bankruptcy estate without setting any further status conferences (which appear to be unnecessary).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/8/16:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the the following:

(1) Data sources and discovery disputes. Is the information provided by the Yoo Family Trust, on behalf of all entities for which it is possessing electronic data, sufficient (see dkt. 452)? Have the parties resolved their disputes regarding search terms?

(2) Mediation. Have the parties resolved this matter? Being conscious of confidentiality, the parties should be prepared to update this court as to the status of this dispute.

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Tentative Ruling for 2/23/16:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the Driver Creditors' status report (dkt. 436), including the following:

(1) Discovery remedies, including sanctions. This Court intends to set an expedited briefing schedule regarding what remedies are appropriate for the apparent failure of the debtor's affiliates to abide by this court's discovery orders (see dkt. 436, p. 1:12-4:17). The delays, possible misrepresentations, and possible spoliation of evidence of C&JJ, despite the assurances of its counsel at prior hearings, are particularly troubling.

This Court cautions all parties that, upon an appropriate showing regarding failure to comply with discovery orders, one of the applicable remedies may be evidentiary sanctions, including dispositive ones. *See In re Hsu*, 2:15-bk-20572-NB, dkt. 168, p. 13-15 (evidentiary sanctions barred any presentation of evidence from critical witness, resulting in adverse disposition on underlying motions allegedly involving over \$3 million).

(2) Continued electronic discovery. Why have the debtor's affiliates failed to produce any electronic discovery? Why have the parties not agreed to a list of search terms (including Korean language search terms)?

Regarding the issues of the proper scope of discovery, this court tentatively agrees with the Driver Creditors that only attorney-client privileged communications may be withheld, at least absent timely and fully supported motions for protective orders which, at this late stage, may be too late to file. The scope of discovery under Federal Rule of Bankruptcy Procedure 7026, incorporating Federal Rule of Civil Procedure 26, is extremely broad and the requested information (e.g., "all correspondence between the president and CFO of LACA Express and Erick Yoo") appears to be discoverable.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Revised Tentative Ruling for 1/19/16:
(None posted)

Tentative Ruling for 1/19/16:
This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 11/17/15:
Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Background, and discovery disputes. This is a continued status conference on a chapter 7 case (previously chapter 11), a continued hearing on the motion of creditor Samuel Talavera, et. al. (the "Driver Creditors") to substantively consolidate (dkt. 240, the "Consolidation Motion") the assets and obligations of LACA Express, Inc. ("LACA"), WinWin Logistics, Inc., ("WinWin"), C&JJ Express, Inc. ("C&JJ"), B&G Transport, Inc. ("B&G"), and the Yoo Family Trust (collectively, the "Entities") into the debtor's estate, and continued hearings on related motions to quash and compel discovery. Prior hearings were held on 6/16/15 and 9/1/15, and notice of this hearing was served on 10/16/15 (dkt. 362).

Many matters have been resolved either consensually (e.g., dkt. 350, 375) or by orders of this court (e.g., dkt. 313, 332, 338). The tentative rulings on the disputes reflected in the latest status reports (dkt. 380, 385, 386) are as follows:

(a) Motions to quash generally. As to the motions of B&G (dkt. 254, and see dkt. 291, 299) and C&JJ (dkt. 294, and see dkt. 295, 296), those are partially resolved by the stipulated protective order (see dkt. 313, 332, 343, 350). Rights have been reserved, however, regarding whether the discovery is sufficiently specific, imposes an undue burden, or impinges on the privacy rights of third parties who are not parties to the stipulated protective order (for B&G see dkt. 254, p.5, and for C&JJ see dkt. 294, at PDF pp. 10-13), although as to the privacy rights of third parties, redaction probably will address most if not all concerns (see, e.g., dkt. 380-2, Shin Decl., Ex.Q, at PDF p.76).

Many disputes appear to have been partially resolved but now have

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become somewhat bogged down. Examples include (see, e.g., dkt. 380-2 (Shin Decl.): para. 2-22 re LACA non-electronic post-petition financial information, electronic discovery, BBCN info., etc.; para. 23-42 re C&JJ initial stipulation but subsequent lack of responses; para. 43-50 re same for Win Win; para. 51-62 re B&G change of counsel and agreement for 11/16/15 production; and para. 63-73 re Loeb&Loeb and Laura Nguyen refusal to produce unredacted retainer agreement.

As to the Yoo motion to quash (dkt. 251, 270, 326-27, and see dkt. 291), this court ultimately granted that motion on grounds of lack of sufficient service (dkt. 315, 338), without reaching the other issues raised in the motion and opposition papers. Now that the parties have stipulated to service (dkt. 375), those other issues appear to be revived.

(b) Electronic discovery. The tentative ruling is that this dispute is not ripe for adjudication because the draft electronic discovery agreement was only recently circulated (dkt. 385, p.4:19-24 & dkt 386 Ex.A), and the parties have yet to meet and confer with the electronic discovery vendor and each other to finalize that agreement and determine what is feasible and not unduly burdensome, all of which will require the respondents immediately to provide more information to that vendor regarding the number of computers, total gigabits at issue, etc. Once that basic information has been provided, the vendor can assist the parties in assessing whether the alleged "first name" problem is truly a problem, whether there are technological solutions, etc.

This court anticipates setting deadlines, after hearing from the parties, for a response to the draft electronic discovery agreement and related steps.

(c) Post-petition financial information. The tentative ruling is that this information is reasonably calculated to lead to the discovery of admissible evidence (assuming without deciding that the requested information is not directly relevant because of the respondents' apparent argument that substantive consolidation must be determined as of the petition date, on which this court takes no position). Therefore that post-petition information must be produced (subject to the stipulated protective order, and any other reserved issues, such as any privacy concerns of third parties that cannot be resolved by redaction).

(d) Retainer agreements. The tentative ruling is that the signature on the retainer agreements must not be redacted; that the burden of establishing any privilege is on the respondents; and more broadly that "the identity of the client, the amount of the fee, the identification of payment by case file name,

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and the general purpose of the work performed are usually not protected from disclosure by the attorney-client privilege" and the respondents have not shown that they come within any exception to that general principle. *Clarke v. Am. Commerce Nat. Bank*, 974 F.2d 127, 129 (9th Cir. 1992). *Compare Ralls v. US*, 52 F.3d 223 (9th Cir. 1995).

(e) Scheduling. The tentative ruling is to set deadlines relating to the production issues described above, and hold a continued hearing on all of the matters on calendar for today at the same time as the continued status conference, with any supplemental opposition or status report due 2 weeks prior, and any supplemental reply or status report due 1 week prior.

(2) Continued hearing. 1/19/16 at 2:00 p.m.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/17/15:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/8/15:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Background

This is a continued status conference on a chapter 7 case (previously chapter 11), a continued hearing on the motion of creditor Samuel Talavera, et. al. (the "Driver Creditors") to substantively consolidate (dkt. 240, the "Consolidation Motion") the assets and obligations of LACA Express, Inc. ("LACA"), WinWin Logistics, Inc., ("WinWin"), C&JJ Express, Inc. ("C&JJ"), B&G Transport, Inc. ("B&G"), and the Yoo Family Trust (collectively, the "Entities") into the debtor's estate, and continued hearings on related motions to quash and compel discovery (dkt. 254, 294 and 324).

On 6/16/15 this court held a preliminary hearing on the Consolidation Motion and some of the Entities' motions to quash. At that hearing this court concluded that there was insufficient evidence to grant the Consolidation

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Motion but that the Driver Creditors had made a sufficient showing to warrant additional discovery. The motions to quash (other than that filed by Eric Yoo and the Yoo Family Trust (dkt. 251)) were largely denied and the hearings were continued to permit the parties to attempt to consensually resolve discovery disputes relating to the protection of private and sensitive data contained in documents that were to be turned over in discovery. The Eric Yoo and Yoo Family Trust's motion to quash (dkt. 251) was ultimately granted in substantial part (dkt. 338) at a continued hearing on the grounds that neither the subpoenas subject to the motion to quash nor the Consolidation Motion itself were ever personally served on Mr. Yoo (in his individual capacity or in his capacity as trustee).

This court has reviewed the docket and there is nothing evidencing further efforts by the Driver Creditors to enforce discovery against Mr. Yoo or the Yoo Family Trust (e.g., proof of personal service of motion papers or subpoenas on Mr. Yoo or a renewed motion to quash by the Yoo parties). Therefore, for the time being, that dispute appears to be temporarily resolved. Moreover, the discovery disputes between the Driver Creditors and B&G, LACA, WinWin, & C&JJ appear to have been resolved via consent, as evidenced by the Driver Creditors' 7/14/15 status report (dkt. 331) and the stipulated protective order (dkt. 348 & 350).

(2) Current issues

The parties should be prepared to address whether there are any remaining discovery disputes. Unless there are, the tentative ruling is to take the hearings on the motions to quash (dkt. 254 & 294) and compel discovery (dkt. 324) off calendar. The parties should further be prepared to address dates/deadlines for completion of discovery (at least as against the parties presently subject to discovery), when the Truck Driver Creditors anticipate supplementing their Consolidation Motion, and when to set a continued status conference (at which this court can set a schedule for any further briefing and a continued hearing on the Consolidation Motion).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 7/21/15:

Appearances required by counsel for the "Driver Creditors" and for Mr. Yoo

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and the Yoo Family Trust, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). Other appearances (including that of the chapter 7 trustee) are permitted but not required.

This court has reviewed all documents filed since the last hearing on the Driver Creditors' motion for substantive consolidation and the Entities' motions to quash (dkt. 310-335). Tentative rulings are as follows:

A. Motions to quash filed by C&JJ and B&G; and Motion to compel Rule 2004 examination of James Kang and for sanctions.

The tentative ruling is to continue the hearing on these motions to be heard in conjunction with a continued hearing on the motion for substantive consolidation in light of (1) the driver creditors' representation in their status report that certain discovery disputes are likely to be resolved without additional court involvement (dkt. 331 at 3:11-14) and (2) Mr. Kang's promised appearance for deposition on 7/31/15, because his appearance will moot some issues and his degree of compliance with discovery obligations may bear on the request for sanctions.

B. Outstanding discovery disputes relating to the Yoo Family Trust.

The tentative ruling is to overrule the Yoo Family Trust's objections to discovery outlined in the "statement of Erick Yoo regarding the nature of the Yoo Family Trust" (dkt. 327).

Production of documents in connection with an adversary proceeding or a contested matter can be compelled under Federal Rule of Bankruptcy Procedure ("FRBP") 7034 (as to a party) or FRBP 9016 (as to a non-party). *In re Sunridge Assoc.*, 202 B.R. 761, 761 (Bankr. E.D. Cal. 1996); *In re Law*, 2009 WL 7751415 (9th Cir. BAP 2009) (rev'd on other grounds). A request under FRCP 34 (incorporated by FRBP 7034 and 9014(c)) may be made by service of the request on opposing counsel (whereas subpoenas of non-parties under FRCP 45 must be personally served). See Cal. Prac. Guide Fed. Civ. Pro. Before Trial Ch. 11 (IV)-C.

Mr. Yoo and the Yoo Family Trust do not appear to contest that the discovery requests were served upon their counsel. Therefore it would appear that the only question is whether the Yoo Family Trust is properly a party to this proceeding. As pointed out by the Driver Creditors, "because the

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Yoo Family Trust filed an opposition to the substantive consolidation motion and did not raise service objections, those objections should be considered waived. . . The Yoo Family Trust's real estate is located in this jurisdiction and the Trust is aware of these proceedings and actively litigating them. . . [Whether or not Mr. Yoo is personally present in this jurisdiction] . . . should not be a shield preventing this Court from exercising jurisdiction over business real estate that is in the jurisdiction." See *Jackson v. Hayakawa*, 682 F.2d 1344, 1347 (9th Cir. 1982) ("[j]urisdiction attaches if a defendant makes a voluntary general appearance"); *Seneca v. First Franklin Financial Corp.*, 2011 WL 1326224 (Dist. S.D. Cal., Apr. 5, 2011) (party may waive defect in service through voluntary appearance without challenging the defect in a preliminary motion or responsive pleading).

The Yoo Family Trust's arguments that it cannot be a party to this bankruptcy proceeding because it is ineligible to be a debtor as a (purported) inter vivos (versus "business") trust is similarly unconvincing. First, this argument puts the "cart before the horse." As pointed out in Mr. Yoo's statement regarding the nature of the Yoo Family Trust, determining whether a trust is properly characterized as a business or living trust is a "fact-specific inquir[y]" involving "how the trust [is] operated" in addition to the stated intent of the settlors. See Dkt. 327 at 3:26-4:3. The authority cited by Mr. Yoo emphasizes the import "that bankruptcy courts make thorough and specific findings of fact to support their conclusions." *Id.* (citing *In re Kenneth Allen Knight Trust*, 303 F.3d 671, 679 (6th Cir. 2002)). This court makes no determination at this time as to what is the correct legal standard for distinguishing between a business versus inter vivos trust. But even under the authority cited by Mr. Yoo, additional discovery would be required to make the determination he requests.

Second, even if Mr. Yoo prevails on his argument that the Yoo Family Trust was not eligible to be a debtor, that is not necessarily the same as determining that the assets and debts of the Yoo Family Trust could not be substantively consolidated with those of the debtor. It may be the case that in order for an entity to be substantively consolidated with the debtor then that entity must itself be eligible to file a bankruptcy petition. But that issue has not been briefed by the parties (and the parties are neither requested nor authorized to brief such issues at this time) and this court is not prepared to reach such conclusion at this time.

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C. Status conference and continued hearing on motion for substantive consolidation. The parties should be prepared to address what dates make sense for a continued hearing or "status conference" on the motion for substantive consolidation in light of the anticipated discovery deadline. The tentative ruling is to continue the chapter 7 status conference to that same date and time.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/21/15:

This court anticipates posting a tentative ruling at a later time.

Revised Tentative Ruling for 6/16/15:

Appearances required to address the following issues.

This court has reviewed the motion for substantive consolidation (dkt. 240, the "Consolidation Motion") brought by creditors Samuel Talavera, Jr., et. al. (the "Driver Creditors") seeking to substantively consolidate the bankruptcy estate with the assets/obligations of LACA Express, Inc. ("LACA"), WinWin Logistics, Inc., ("WinWin"), C&JJ Express, Inc. ("C&JJ"), B&G Transport, Inc. ("B&G"), and the Yoo Family Trust ("Yoo") (collectively, the "Entities"). This court has also reviewed the oppositions and motions to strike filed by these Entities (dkt. 267-290, 292-293, 298 & 303), the reply (dkt. 302) by the Driver Creditors, and various unauthorized supplemental papers filed by the parties (dkt. 303-309). For the reasons stated below, this court is unable at this stage to make a final determination as to the merits of the Motion. Nevertheless, the Driver Creditors have made a sufficient showing to warrant, at the very least, additional time and opportunity to conduct further investigation into the Entities' relationship with the debtor, one another, and their individual and joint creditors.

I. Jurisdiction/Authority.

A. Stern v. Marshall objection. Some of the Entities' oppositions argue that this Court lacks jurisdiction/authority over the Motion. For example, the Yoo Opposition cites *Stern v. Marshall*, 131 S. Ct. 2594 (2011) and argues

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that, because the claims asserted by the Driver Creditors against Yoo and the other Entities are based in state law, this court lacks jurisdiction/authority to hear and/or finally determine the Consolidation Motion. See, e.g., Yoo Opposition (dkt. 267 at 12:6-22). This argument conflates some of the Driver Creditors' underlying claims (admittedly based in state law) with the relief sought in the Consolidation Motion - substantive consolidation (which is a matter of bankruptcy law).

"*Stern* held that, although Congress defined creditors' counterclaims against the bankruptcy estate as core, the bankruptcy court nonetheless 'lacked the constitutional authority to enter a final judgment on a state law counterclaim that is not resolved in the process of ruling on a creditor's proof of claim.'" *In re Owner Management Service, LLC Trustee Corps*, ___ B.R. ___, 2015 WL 2090924, *___ (Bankr. C.D. Cal., Apr. 29, 2015). In contrast, a motion for substantive consolidation asks the bankruptcy court to decide what property is and is not properly included within the estate. "Identifying property that constitutes the estate has long been a central feature of bankruptcy adjudication." *Wellness Int'l Network Ltd., v. Sharif*, No. 13-935, slip. op. at 16 (May 26, 2015) (Roberts, dissenting).

Substantive consolidation is a uniquely bankruptcy matter that does not exist outside of the bankruptcy context. *In re LLS America*, 2011 WL 4005447 (Bankr. E.D. Wash. Sept. 8, 2011), *aff'd In re LLS Am., LLC*, 2012 WL 2042503 (9th Cir. BAP June 5, 2012). The BAP held in that case that the "narrow holding of *Stern v. Marshall* does not apply to the Motion [before it] for Substantive Consolidation." *Id.* See also *In re Owner Management Service, LLC Trustee Corps*, ___ B.R. ___, 2015 WL 2090924, *___ (Bankr. C.D. Cal., Apr. 29, 2015) (same).

For all of these reasons, this court has both the jurisdiction and the authority to issue a final order on the motion. (Alternatively, as always, if an Article III court were to disagree, it could treat this court's disposition of the motion as proposed findings of fact and conclusions of law.)

B. Substantive consolidation of the Yoo Family Trust. The Consolidation Motion seeks to substantively consolidate the Yoo Family Trust with the debtor. As a general rule, family and estate planning trusts are ineligible to be debtors under the Code. See *In re Kenneth Allen Knight Trust*, 303 F.3d 671, 680 (6th Cir. 2002). By contrast, a "business trust" is generally included in the Code's definition of a "corporation" (11 U.S.C. 109

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(9)) and is therefore likely eligible to be a debtor. *Id.*

To date, no party has addressed these issues, or whether this court has jurisdiction/authority to substantively consolidate a trust with the debtor. Nevertheless, this court has an independent duty to examine issues of jurisdiction and authority. *See In re Rosson*, 545 F.3d 764, 769 no. 5 (9th Cir. 2008) (subject matter jurisdiction); *In re Pringle*, 495 B.R. 447, 455 (9th Cir. BAP 2013) (authority under *Stern*).

At the present stage of this litigation, this court is satisfied that it has sufficient jurisdiction/authority to proceed as to the trust. If the Driver Creditors establish that the Yoo Family Trust ought to be substantively consolidated with the debtor, then it seems likely that the Trust will fairly be characterized either as a "business trust" or as merely an extension or asset of one of the corporate entities. If, on the other hand, the Driver Creditors do not prevail, then the issue will be moot. Accordingly, having raised this issue, the tentative ruling is to reject these concerns, at least on the present record.

II. Driver Creditors' Standing. Several of the Entities' oppositions argue that the Driver Creditors lack standing because some members of the plaintiff class have received their own, individual chapter 7 discharge and failed to disclose their claims against the debtor and/or Entities in their individual cases. *E.g.*, Yoo Opposition (dkt. 267 pp 5-8). This is an argument that has been raised several times during this bankruptcy case - such as at status conferences discussing the Driver Creditors' Motion for Rule 2004 Examinations (dkt. 59).

This court does not find compelling the Entities' arguments that the Consolidation Motion should be denied on the basis of several of the Driver Creditors having received a chapter 7 discharge. As this court has articulated at previous hearings, members of the Driver Creditors who have received a bankruptcy discharge and failed to notify their trustee of their claims against the debtor and/or Entities may in all likelihood re-open their bankruptcy case, disclose their cause of action, and either permit the chapter 7 trustee from their individual cases to participate in this case in their stead or to stipulate to some other resolution. It appears that some of the Driver Creditors are now seeking to do precisely this (dkt. 302 at 16:5-28). If those certain driver creditors fail to do so, then those individuals likely should no longer participate further in this bankruptcy case. Regardless, there are at least a half-dozen other class representatives as well as a substantial number of Driver

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Creditors whom no one contends lack standing based upon their receipt of any bankruptcy discharge. Thus, the Consolidation Motion will not be denied on this basis.

On a separate but related point, even if certain members of the Driver Creditors lack standing to participate in this case, this in and of itself is not a basis for disregarding their declarations as has been requested in at least one of the Entities' oppositions. See Yoo Opposition (dkt. 267 at 12:3-4). The Entities have not cited any authority that a lack of standing to prosecute claims translates into a lack of capacity to be a witness. See *generally* F.R.E. 601.

III. Sale pursuant to 11 U.S.C. 363.

For the sake of completeness, this court notes another potential issue that apparently turns out to be a non-issue on the facts of this particular case. Previously this court approved the sale of certain assets of the debtor "free and clear" (11 U.S.C. 363(f)) to JBMT, LLC, an entity formed by James Kang, the former president of the debtor. See Motion (dkt. 175) *and* Order (dkt. 204). Nothing in the sale process or the sale order purported to insulate the Entities from claims of substantive consolidation (or alter ego, joint liability, piercing the corporate veil, etc.).

IV. Driver Creditors have not made a sufficient showing to warrant granting the Consolidation Motion at this time.

As a preliminary matter, the tentative ruling on the evidentiary objections is as follows.

(a) LACA's objections to Shin Decl. (dkt. 274): (i) sustain objections 1 and 2 (characterizing the State court's alleged reasoning; but that makes no difference because the statements can be considered as argument regardless what the State court did or did not reason); and

(ii) overrule objection 3 (the alleged statement of the debtor's counsel to "look into" the issue, and alleged lack of response, is admissible under FRE 801(d)(2) and alternatively 807, but in any event the rulings would be the same regardless whether this evidence is considered).

(b) LACA's additional objections to Shin Decl. (dkt. 275): (i) overrule the objection that portions of documents "may" have been marked as "confidential" or "highly confidential" under an existing State court protective order (dkt. 275 at 2:15-20), because that objection is too vague and

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unsupported and this court is not required to sift through the documents to attempt to uncover alleged violations;

(ii) sustain in part and overrule in part the objections (dkt. 275 at 2:22-46:7) to certain statements that allegedly lack sufficient foundation/personal knowledge and attached declarations of other persons and transcript excerpts (dkt. 240-1 and Exhibits thereto) - although in general such declarations and transcripts probably would need to be presented in more technically proper form (e.g., declarations filed in State court would need to be re-executed under penalty of federal perjury and filed in this action), they are sufficient under FRE 807 for purposes of warranting further discovery and proceedings on the Consolidation Motion.

(c) LACA's objections (dkt. 276) to Talavera Decl. (dkt. 243 Ex.B). Overrule the objection regarding vague and potential violations of a State court protective order. In other respects, sustain this objection in part and overrule it in part to the same extent as in the preceding paragraph. It is true that, for example, there is no affirmation or oath regarding the translation from Spanish into English, but that can be addressed in future, and for present purposes the declaration bears sufficient indicia of reliability to support further discovery in support of the Consolidation Motion.

(d) LACA's other evidentiary objections (dkt. 277-287). Same ruling as in immediately preceding paragraph.

(e) Merits of the Consolidation Motion. Turning to the merits, Ninth Circuit bankruptcy courts have authority to order substantive consolidation of debtor and non-debtor entities pursuant to 11 U.S.C. 105(a). *In re Bonham*, 229 F.3d 750, 758, 764 (9th Cir. 2000). In *Bonham*, the Ninth Circuit adopted the test articulated by the Second Circuit in *In re Augie/Restivo Baking Co., Ltd.*, 860 F.2d 515 (2nd Cir. 1988) for determining whether substantive consolidation was appropriate. The test consists of two alternatives, either one of which may provide a sufficient basis for substantive consolidation. Those alternatives are: "(1) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or (2) whether the affairs of the debtor are so entangled that consolidation will benefit all creditors." *In re Bonham*, 229 F.3d at 766.

The Driver Creditors go to great lengths to establish a significant - and possibly very substantial - degree of interrelation between the Entities. For example, several of the Entities (QTS, B&G, and WinWin) operate out of the same location, which itself is owned by the Yoo Family Trust. Some

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documents attached to the Motion appear to show that the same individual signed documents as the President of LACA, B&G, WinWin, and the debtor (formerly Imex). See Motion, ex. KK. The Motion attaches evidence that funds are sometimes transferred amongst the Entities. See, e.g., Motion, ex. VV.

The Entities respond that the evidence attached to the Motion is insufficient to warrant substantive consolidation and that just because they are intertwined does not in and of itself satisfy *Bonham*. This point is well taken and the Driver Creditors' Consolidation Motion is insufficient in a number of ways.

For example, one of the *Bonham* tests would require that "the affairs of the debtor are so entangled that consolidation will benefit all creditors." *Bonham*, 229 F.3d at 766. As pointed out in several of the Entities' Oppositions, the Motion contains scant analysis of how substantive consolidation would affect other creditors, such as the individual creditors of B&G, LACA, Yoo, etc.

The evidence in support of the Consolidation Motion is also insufficient, at present, to satisfy the other alternative *Bonham* test ("whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit"). There is minimal evidence that creditors, including the Driver Creditors, view the Entities as a single corporation. See, e.g., LACA Opposition (dkt. 272 at 8:11-12:4).

The Entities also criticize the Driver Creditors for failing to attach to the Consolidation Motion financial statements evidencing their interrelationship. While this may be accurate, as evidenced by the motions to quash (dkt. 251, 254, 294) filed in this case, at least some of the Entities have fiercely resisted turning over documents to the Driver Creditors. Thus, it would be unrealistic at this stage to expect the Driver Creditors to have submitted detailed analyses of the Entities' financial relationships with one another and third parties sufficient to establish that creditors generally treated them as a single entity or that their financial affairs cannot be "unscrambled."

In short, this court can neither grant nor deny the Consolidation Motion at this stage. Nevertheless, the Driver Creditors have made a sufficient showing of overlapping functions, governance, and finances to warrant at the very least additional discovery into the Entities' finances and relationships. At the hearing, this court intends to direct the parties to meet and confer regarding an appropriate protective order and any other appropriate

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safeguards involving discovery, and set a continued hearing on 7/21/15 at 2:00 p.m. to resolve any disputes on that issue, with simultaneous briefs due 7/7/15.

V. Due process will ultimately require service upon all parties-in-interest.

Even if the Driver Creditors had made a sufficient showing to warrant granting the Consolidation Motion, several of the oppositions persuasively argue that their individual creditors ought to receive notice and an opportunity to object to the Consolidation Motion. See, e.g, WinWin Opposition (dkt. 288 at 9:1-10:2). Some of the Entities have agreed to provide the Driver Creditors with a list of their individual creditors to facilitate this process.

Providing the Entities' individual creditors with notice of the Driver Creditors' intent to substantively consolidate the Entities with the debtor will be necessary for satisfying due process. See *In re Clearview Builders, Inc.*, 405 B.R. 144, 148 (Bankr. M.D. Penn. 2008). However, it is sensible to permit additional discovery and amendments to the Consolidation Motion before service upon the Entities individual creditors.

VI. Other arguments.

The tentative ruling is to reject the other arguments in opposition to the Consolidation Motion - e.g., that it is really a disguised equivalent to involuntary petitions against the Entities. Those arguments are unpersuasive.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/16/15:

This court anticipates posting a tentative ruling at a later time.

Revised Tentative Ruling for 5/12/15:

This Court has reviewed the chapter 7 trustee's status report (dkt. 235), and other filed documents. At this time the court's only concern is that the application to employ labor counsel (dkt. 237) does not contain a statement of disinterestedness (local form F 2014-1.STMT.DISINTEREST.PROF) as required by Judge Bason's posted procedures (see www.cacb.uscourts.gov, "Judges," "Bason, N."),

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"Instructions/Procedures"). Unless a party wishes to be heard on some other issue, the tentative ruling is to continue this status conference to 7/21/15 at 11:00 a.m. (with a *brief* written status report due 7/14/15). Appearances are not required on 5/12/15.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/12/15:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 3/10/15:

Appearances required. Any other appearances may be via telephone provided that arrangements must be made as provided in Judge Bason's Procedures (posted at www.cacb.uscourts.gov, "Judges," "Bason, N.," "Instructions/Procedures," "Procedures;" see the section labeled "Telephonic appearances").

(1) Status Update. This court has reviewed the chapter 11 trustee's status report (dkt. 185). After that report was filed, this court issued its order (dkt. 196) converting this case to chapter 7. This court presumes, for purposes of this tentative ruling, that the chapter 11 trustee will be appointed as the chapter 7 trustee, and he is referred to in this tentative ruling as the "Trustee."

The Trustee should be prepared to address any new developments including: (a) the state of negotiations with the Driver Creditors, including whether it would be productive to proceed with the formal mediation previously ordered between the debtor and the Driver Creditors, either with or without the participating of the Trustee; (b) potential time frame for investigating claims of the estate against third parties; (c) efforts and a time frame to collect on outstanding accounts receivable; and (d) all other matters appropriate for a status conference.

(2) Motion to Sell. This court has reviewed the Trustee's motion to sell (dkt. 175) and the proposed asset purchase agreement (the "APA") between the chapter 11 trustee and JBKT, LLC ("JBKT"), whose principal is James Kang ("Mr. Kang"), the same individual who was the President of the debtor. This

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court has also reviewed the response and conditional objection of the "Driver Creditors" (dkt. 181) and the Trustee's reply (dkt. 186) thereto. The tentative ruling is to grant the Motion to Sell, subject to the concessions made in the Trustee's reply, for the reasons stated therein.

The parties should be prepared to address whether the buyer has stipulated to classifying any truck drivers of JBKT as employees, rather than independent contractors, as suggested in the Truck Drivers' Opposition (dkt. 181, p. 3) and encouraged by the Trustee (dkt. 186, p. 4). Regardless of the answer to that question, however, the tentative ruling is to grant the motion as provided above.

Pursuant to LBR 9021-1(b)(1)(B), the Trustee must serve and lodge a proposed order via LOU within 7 days after the hearing date. The proposed order should attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling.

(3) Order to show cause (dkt. 123)

The tentative ruling is to discharge the order to show cause, because this case has been converted to chapter 7 already, and a trustee is in place. *This court will prepare an order* after the hearing.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

QTS, INC.

Represented By
James R Selth
Elaine Nguyen
Daniel J Weintraub

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong

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#2.00 Cont'd status conference re: Chapter 11 case
fr. 4/12/16, 04/26/16, 05/17/16, 8/2/16, 9/6/16

Docket 0

Tentative Ruling:

Tentative Ruling for 11/8/16:

Continue to 11/29/16 at 2:00 p.m. for the reasons stated in the debtor's pending motion to extend time for filing plan and disclosure statement and extend exclusivity (dkt. 166). Appearances are not required on 11/8/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Revised Tentative Ruling for 9/6/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(A) Current issue: objection to AOK claim

This court has reviewed the debtor's objection (dkt. 121) to proof of claim 9-1, filed by AOK Brothers, LLC (AOK); AOK's opposition (dkt. 147); and the debtor's reply to the objection (dkt. 150).

(1) Default interest

The parties do not appear to disagree on the legal standards. The debtor does not (at this time) seek to disallow default interest pursuant to any "cure" concept under bankruptcy law. *Cf., e.g., GECC v. Future Media*, 547 F.3d 956 (9th Cir. 2008); *In re Entz-White Lumber and Supply, Inc.*, 850 F.2d 1338 (9th Cir. 1988). Rather, the debtor relies on California law. See generally *In re Kord Enterprises II*, 139 F.3d 684, 687 (9th Cir. 1998).

As stated by the California Supreme Court, the analysis under California law is to determine whether default rates of interest are either permissible liquidated damages or an impermissible penalty:

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[California Civil Code] Section 1671 authorizes the assessment of agreed-upon and anticipated damages only when the fixing of the actual damages which would be sustained upon a breach would be "impracticable" or "extremely difficult." Where, as here, the issue is presented on admitted facts it is one of law and must be examined from the position of the parties at the time the contract was entered into. The party seeking to rely on a liquidated damages clause bears the burden of proof. [¶] "The validity of a clause for liquidated damages requires that the parties to the contract 'agree therein upon an amount which shall be presumed to be the amount of damages sustained by a breach thereof....'" (Civ. Code, § 1671.) This amount must represent the result of a reasonable endeavor by the parties to estimate a fair average compensation for any loss that may be sustained. [*Garrett v. Coast & Southern Fed. Sav. & Loan Assn.*, 9 Cal.3d 731 (1973) (citations and some internal quotation marks omitted, emphasis added). See also *Ridgley v. Topa Thrift & Loan Assn.*, 17 Cal. 4th 970, 981 (Cal. 1998).]

In this instance, AOK has not met its burden to establish that the default rate of interest is permissible under California law. A five percent (5%) interest rate has not been shown to be a reasonable estimate of liquidated damages, given the \$1.3 million equity cushion AOK has in the property. In addition and alternatively, there is no showing of any anticipated damages - beyond the compensation that AOK already can claim through late charges, ongoing interest at the non-default rate, and other things such as attorney fees as set forth below – let alone evidence that the parties made a reasonable endeavor to estimate any such additional losses.

The debtor estimates that AOK's proof of claim includes at least \$15,000 of default interest. The tentative ruling is to set a deadline of 9/20/16 for AOK to file an amended proof of claim that shows the calculation of default interest, and a deadline of 9/27/16 for the debtor to lodge a proposed order, with a copy of this tentative ruling attached, that disallows all default interest (including not just whatever AOK asserts as of the petition date but also any future claim for default interest).

(2) Attorney fees

The debtor's motion requests that AOK's claim be reduced by

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\$34,221.46 for unreasonable and unnecessary attorney's fees incurred by AOK's counsel. The tentative ruling is to disallow a portion of those fees as set forth below.

The debtor is correct that the loan documents contain confusing provisions regarding attorney fees. But the tentative ruling is that the debtor is incorrect in arguing (dkt. 121, p.5:27-28) that a notice of acceleration or similar predicates were required before he had any obligation to pay AOK's attorney fees.

(a) Some loan document clauses require notices of acceleration or similar predicates

On the one hand, several clauses support the debtor's reading that AOK was required to send a notice of acceleration (or similar predicates) before being entitled to any attorney fees.

(i) The promissory note has a section (section 4.D) providing that "[i]f immediate full payment is required (acceleration, at AOK's option upon default) then AOK will have the right to be paid its reasonable attorney fees (dkt. 121, Ex.1, at PDF p.30, emphasis added).

(ii) The deed of trust ("DOT") provides (section 17) that if a notice of default is provided and the breach is not timely cured then AOK shall be entitled to collect all reasonable attorney fees "incurred in pursuing the remedies provided in this paragraph 17" (power of sale and other remedies permitted by applicable law). Dkt. 121, Ex.1, at PDF p.48.

(iii) The DOT's more general provision regarding protection of AOK's security (section 7) states that if debtor fails to perform then "upon notice to [debtor]" (dkt. 121, Ex.1, at PDF p.46, emphasis added) AOK may disburse sums and take actions necessary to protect its interests including disbursement of reasonable attorney fees.

(iv) An addendum to the promissory note (*id.*, at PDF p.35, the "Note Addendum") and a rider to the DOT (dkt. 121, Ex.1, at PDF p.55, the "DOT Rider") both provide that "[i]n the event that" there is a payment default and AOK permits the debtor "to cure the default," then the debtor shall pay AOK "all reasonable attorney fees and costs incurred by [AOK] originating from this default and the cure thereof." (Emphasis added.)

(v) The tentative ruling is that the debtor is correct that his "personal guaranty" of his own obligation is a nullity, so its attorney fee clause (dkt. 147, Ex.B, section 6) is of no force and effect.

(b) Other clauses require the debtor to pay AOK's attorney fees

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reasonably necessary to bring any late payments current

On the other hand, the Note Addendum and DOT Rider also provide that, if AOK has not received the full amount of any monthly payment by the end of ten calendar days after it is due, the debtor "will promptly pay to [AOK] all costs incurred by [it], including, but not limited to, attorneys' fees reasonably necessary to bring any late payments (overdue payments) current." Dkt. 121, Ex.1, at PDF pp. 35 & 55 (emphasis added). No notice of acceleration or other prerequisite is required for this obligation.

The debtor (dkt. 121, pp. 7:23-8:11 and 8:17-9:3) cites authority that such clauses must be construed narrowly against the lender, and argues that in this light AOK's bankruptcy litigation was not "reasonably necessary to bring any late payments (overdue payments) current." Instead, the debtor argues, AOK's litigation was bankruptcy-related: opposing the debtor's use of cash collateral; seeking to convert this case to one under chapter 7 of the Bankruptcy Code; opposing the debtor's motion to extend the exclusive period in which only he may propose a plan of reorganization; etc.

It is true that the decisions cited by the debtor construe such clauses strictly against the lender. See dkt. 121, p.8:1-11 (citing cases); *and see, e.g., In re Cukierman*, 265 F.3d 846, 852 (9th Cir. 2001); *In re Westside Print Works*, 180 B.R. 557 (9th Cir. BAP 1995). But a fair reading of the loan documents, even construed against AOK, is that it was "reasonably necessary" to pay attorneys to engage in bankruptcy litigation in order to attempt to "bring any late payments" current. In fact, the whole point of bankruptcy reorganization (by this debtor and most debtors) is to attempt to defer or restructure financial obligations; and in opposing such attempts the creditor is attempting to "bring any late payments" current, as nearly as possible given the constraints of the bankruptcy system on creditors' exercise of their remedies.

Alternatively, even supposing that there were sufficient ambiguity about the loan documents to reach a different conclusion, that ambiguity would be resolved by the letter signed by the debtor (dkt. 147, Ex.E) confirmed that he agrees to pay a late fee "in addition to any legal fees [AOK] incurs in connection with collecting any payment on my loan." Again, a fair reading of this document is that "collecting" payments includes filing a claim in a bankruptcy case, opposing the debtor's attempts to defer or reduce payments, and otherwise engaging in bankruptcy litigation.

For the foregoing reasons, AOK is owed its reasonable attorney fees.

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The remaining question is what attorney fees were reasonable.

(c) Reasonableness of AOK's attorney fees

The debtor is correct that, at least on the present record, AOK appears to be greatly oversecured, so much of its litigation was unnecessary to protect its interests and doomed to fail from the outset. In addition, as this Bankruptcy Court has noted before on the record, many of AOK's arguments lacked a sufficient foundation.

On the other hand, as this Bankruptcy Court previously has also observed, the debtor has been sloppy in some aspects of his case management – such as failing to recognize that AOK has an interest in cash collateral; or failing to provide adequate notice to AOK. In addition, the debtor's sloppiness and tendency to overstate his arguments justify greater involvement by AOK than typically might be required for a creditor protected by a substantial equity cushion.

This Bankruptcy Court has taken these things into consideration in reviewing AOK's daily timesheets. That review has been hampered by the fact that AOK's timesheets do not comply with the local rules and guidelines – for example, time entries are "lumped" together, and they do not often identify the precise issues addressed (e.g., the subjects of telephone conferences generally are not described). Nevertheless, this Bankruptcy Court has sufficient familiarity with the filed pleadings and records in this case, as well as the approximate amount of fees that normally would be incurred in cases of this sort, to be able to rule on this record. In addition, it does not appear that any party's interests would be served by the expense and delay of further briefing.

In view of the foregoing, the tentative ruling is to reduce AOK's legal fees to date by \$14,000.00.

(B) Deadlines/dates. This case was filed on 2/17/16.

(1) Bar date: 6/30/16 (timely served, dkt. 58, 67).

(2) Plan/Disclosure Statement*: 9/27/16 deadline to file (NOT SERVE, except on the US Trustee, AOK, and any other party requesting special notice) a draft plan and draft disclosure statement on the forms required by Judge Bason.*

(3) Continued status conference: 10/18/16 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/6/16:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 8/2/16:

Continue to 9/6/16 at 2:00 p.m. to address the following issues. Appearances are not required on 8/2/16.

On 7/19/16, this Court held a hearing on the debtor's motion to extend exclusivity. At that hearing, this Court exercised its inherent authority to manage its docket and determined that it was appropriate to continue this matter so that it is held concurrently with the debtor's objection to AOK Brother's claim.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Revised Tentative Ruling for 5/17/16:

Continue to 6/21/16 at 1:00 p.m. Appearances are not required on 5/17/16.

(1) Current issues

(a) Cash collateral motion. Grant (please see the tentative ruling for matter number 5, 5/17/16 at 1:00 p.m. for this Court's reasoning regarding the debtor's cash collateral motion).

(b) Properties. The tentative ruling is that the debtor has provided an adequate status report (dkt. 81), for present purposes, regarding the two properties as to which there appears to be some confusion regarding ownership: (i) 5255 Tchoupitoulas St., New Orleans Property and (ii) 3324 Octavia, New Orleans, Louisiana.

(c) Claim objections. Once AOK Brothers has filed its proof of claim, and the debtor has filed his objection, this Court will address whether to make

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preliminary rulings before or after directing the parties to mandatory mediation (note: Judge Bason's policy is to order mediation before one of the volunteer mediators, *not* a Bankruptcy Judge).

(d) Disclosure statement notice period. The debtor is correct (dkt. 81, para. 25) that the correct period is 42 days (the local rule is outdated and is in the process of being revised).

(2) Deadlines/dates. This case was filed on 2/17/16.

(a) Bar date: 6/30/16 (timely served, dkt. 58, 67).

(b) Plan/Disclosure Statement*: file by 9/5/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: Continue as set forth above. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/17/16:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/26/16:

Deny the motion of AOK Brothers, LLC ("AOK") to dismiss or for other remedies (dkt. 51), and set a continued status conference, all as further set forth below. Appearances are not required.

(1) Current issues.

(a) Motion to dismiss etc. (dkt. 51). Deny the motion without prejudice to renewing it at a later date, if sufficient cause exists.

Proposed order: The debtor is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling.

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Reasons for denial:

(i) Motion and opposition. The crux of AOK's motion is that cause exists under 11 USC 1112(b)(4) to convert or dismiss this case, and alternatively under 11 USC 1104, to appoint a chapter 11 trustee based on the debtor's alleged "gross mismanagement of the estate" and his "unauthorized use of cash collateral" that allegedly was "substantially harmful to 1 or more creditors[.]" 11 USC 1112(b)(4)(B) & (D). (In its reply (dkt. 65), AOK raises a number of additional issues allegedly supporting such relief.)

On the one hand this Court is somewhat concerned about (A) the debtor's (apparently inadvertent) use of cash collateral without authorization and (slight) delay in seeking such authorization once he was alerted to the assignment of rents issue (see dkt. 39), (B) his filing of this case in the wrong division of this district (see dkt. 19, 21), (C) his refusal to communicate in writing with AOK's counsel except in limited ways, (D) some vagueness regarding the assets and liabilities of the bankruptcy estate, (E) the prior bankruptcies affecting the property on which AOK has a lien, and (F) AOK's other allegations. Nevertheless, this Court is not persuaded based on the current record that there has been anything remotely approaching "gross" mismanagement of this estate or that the duration and nature of the use of cash collateral caused any "substantial" harm (if there was any harm at all) to any creditors, including AOK.

There is no evidence that the cash collateral was used for anything other than legitimate purposes. One such use has been paying liens, including tendering payments to AOK at an interest rate that is *prima facie* within a reasonable range for adequate protection of AOK's interest (and AOK has not rebutted that *prima facie* showing). Another use of cash collateral is to maintain the subject property (see dkt. 40, budget at pp. 4-6). AOK has not identified any harm at all, let alone "substantial" harm, from this use of cash collateral.

(ii) AOK's reply. AOK raises a number of new issues in its reply. That is procedurally improper and should be disregarded. See LBR 9013-1 (g)(1).

Alternatively and additionally, these new issues are not sufficient to warrant conversion, dismissal, or appointment of a chapter 11 trustee. It is true that, in general, a debtor has a fiduciary obligation to make disclosures, conduct investigations, and take actions regarding liabilities and assets,

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including such matters as claims objections and potential avoidance actions. If this bankruptcy estate turns out to be insolvent, and if the other facts and circumstances warrant, then the debtor might have to consider recovering the funds that were used to pay for his son's legal fees, and in any event he may have to sort out his interests in certain real property and in the law firm with his wife. But at this early stage AOK has not established that the debtor is shirking any such duties at all.

The debtor has represented that he anticipates a 100% payment to creditors, and he is contemplating a sale or refinance of at least one property, all of which makes it likely that any pursuit of avoidance actions would be premature and possibly a waste of time and resources. AOK's secured claim appears to be adequately protected (as noted above).

Of course, AOK is not required to accept the debtor's assertions at face value, it can elect to do its own due diligence and otherwise protect its interests, and presumably (although this issue has not been briefed) it may be entitled to reimbursement under the loan documents and applicable law in some dollar amount for a reasonable expenditure of attorney fees in pursuit of those things. But at this early stage of this case AOK has not come close to showing any substantial basis for the extreme remedies of conversion, dismissal, or appointment of a chapter 11 trustee.

Turning to another example, it is true that the California ethical rules provide that "[w]hile representing a client" a member of the bar shall not communicate with a party whom the member "knows" to be represented by another lawyer in the matter (without that lawyer's consent). See Reply (dkt. 65) p.8:10-14 (quoting Rule 2-100). AOK has not cited legal authority that the debtor, representing himself, is "representing a client" within the meaning of the rule. In addition, the debtor has denied having the requisite knowledge of the representation, and AOK has not presented any contrary evidence. Moreover, supposing for the sake of discussion that AOK could show an ethical violation, it has not cited any authority that this would be sufficient for conversion, dismissal, or appointment of a chapter 11 trustee. This Court does not condone the alleged nature and tone of the communications (see Nelson Decl., dkt. 65, at PDF pp. 11-12), but if those were proven and amounted to actual ethical violations there would be separate remedies that would be more closely tailored to any actual wrongdoing, as opposed to sweeping remedies such as dismissal that may harm all creditors (and that might unduly punish even a debtor who has violated an ethical rule).

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The remaining issues raised in AOK's reply appear to be most appropriately resolved through other means, such as a claim objection, consideration of a draft disclosure statement and plan, or the usual process of oversight by the Office of the United States Trustee ("UST"). For example, having reviewed the record in this case (including the transcript from the hearing on 4/12/16), it does not appear that this Court *ordered* the debtor to file an amended bankruptcy Schedule I, contrary to AOK's assertions in its reply. It is true that the UST and the debtor discussed possible amendments to the bankruptcy schedules at a prior hearing, but this Court left that in the first instance to the discretion of the debtor (under the eye of the UST) and any purported lack of accuracy will only be appropriate for this Court to address if later developments show that the debtor abused that discretion.

(iii) Debtor's supplemental opposition (dkt.68). The debtor's supplemental opposition is unauthorized and therefore, like the new arguments in the reply, need not be addressed. In addition and alternatively, this Court need not consider the factual allegations in that document (largely concerning the alleged ethical violation) because this Court is not persuaded by the reply in any event (for the reasons set forth above).

(2) Deadlines/dates. This case was filed on 2/17/16.

(a) Bar date: 6/30/16 (timely served, dkt. 58, 67).

(b) Plan/Disclosure Statement*: file by 9/5/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 5/17/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you wish to dispute the above tentative ruling, please see Judge Bason's

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Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 4/12/16:

Appearances required by the debtor in person and any counsel for the debtor.

(1) Current issues.

(a) Status report. This Court has reviewed the debtor's timely filed status report (dkt. 47).

Regarding the debtor's request to file an explanation of the facts that gave rise to this case under seal, this Court requests that the U.S. Trustee state whether it would oppose such request and whether a written motion should be required.

In addition, the debtor should address what is meant by stating, with respect to possible sale procedures (dkt. 47, p.5:25-27), "This depends on how Court views New Orleans property."

(b) Employment of a real estate professional. When does this debtor anticipate filing a motion to employ a real estate professional to sell the one New Orleans property that he contemplates selling?

(c) Cash collateral. This Court has issued a separate tentative ruling addressing the debtor's proposed use of cash collateral (see calendar number 2, 4/12/16 at 1:00 p.m.).

(d) Monthly Operating Report ("MOR") (dkt. 53). The debtor refers to a postpetition settlement. Will that need to be subject to a motion under Rule 9019?

(e) Business income and expenses. The debtor's amended bankruptcy Schedules I&J (dkt. 45) fail to provide a breakdown of gross income, expenses, and net income for his business despite the instructions to do so on line 8a of Schedule I. The tentative ruling is to set a deadline of 4/19/16 to file an amended Schedule I that provides a detailed breakdown.

(2) Deadlines/dates. This case was filed on 2/17/16.

(a) Bar date: 6/30/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/5/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later

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time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 4/26/16 at 2:00 p.m. (to be heard concurrently with the AOK Brothers, LLC motion to dismiss). No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michael R Totaro

Pro Se

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2:09-34215 Patrick Matthewson

Chapter 13

Adv#: 2:16-01061 Matthewson et al v. Shellpoint Mortgage Servicing et al

#3.00 Status conference re: Complaint for:
1) Declaratory relief; 2) Specific performance
fr. 4/12/16, 5/31/16, 8/2/16, 10/11/16

Docket 1

Tentative Ruling:

Tentative Ruling for 11/8/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the issues raised in this court's order entered on 11/2/16 (adv. dkt. 25).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/2/16:

Appearances required. The court has reviewed the parties' joint status report (dkt. 13) and the other filed documents and records in this adversary proceeding.

(1) Background. On 5/31/16 and in the parties' recent status report, the parties informed this Court that this matter has been resolved. This Court continued this status conference with the admonition that if the matter had not been resolved by this date and time, it would set the matter on an expedited trial schedule. Accordingly, unless this adversary proceeding has been resolved, this Court intends to set the following dates and deadlines.

(2) Deadlines: This adversary proceeding has been pending since 2/10/16.

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Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 9/13/16.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Lodge Joint Proposed Pre-Trial Order: 9/27/16

Pretrial conference: 10/11/16 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 10/13/16 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 10/18/16 at 9:00 a.m.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/31/16:

Appearances required. The court has reviewed the docket in this adversary proceeding and it does not appear that the parties have settled this matter.

(1) Dismissal. In view of the fact that the debtors have received a discharge in their main bankruptcy case and that case has been closed (see 2:09-bk-34215-NB, dkt. 87), should this adversary proceeding be dismissed, too? See generally *In re Carraher*, 971 F.2d 327, 328 (9th Cir. 1992); see also *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (limits on bankruptcy court's authority). If this Court is persuaded not to dismiss this adversary proceeding, the parties should be prepared to address the following issues.

(2) Service on necessary parties? The status report (dkt. 11, p.1) and the docket in this adversary proceeding appear to reflect that not all parties have been served. Can this matter proceed in the absence of un-served parties?

(3) Mediation. The parties' status report (dkt. 11, p.3) suggested as of 4/6/16

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that mediation be deferred, to attempt informal resolution. But the parties do not yet appear to have resolved their issues. Accordingly, is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below?

(4) Deadlines: This adversary proceeding has been pending since 2/10/16. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Deadline to serve all parties with the summons and complaint: 6/7/16

Discovery cutoff (for *completion* of discovery): 8/9/16.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 8/23/16.

Continued status conference: 9/6/16 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 9/27/16

Pretrial conference: 10/11/16 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 10/13/16 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 10/18/16 at 9:00 a.m.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/12/16:

Continue to 5/31/16 at 11:00 a.m. for settlement negotiations pursuant to the parties' joint status report (dkt. 11). The parties are cautioned that if the matter has not been settled by the continued status conference then this Court anticipates setting a trial date and proceeding on parallel tracks with discovery and other pretrial matters and also mediation or any other attempts at settlement. Appearances are not required on 4/12/16.

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If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Patrick Matthewson

Represented By
Caroline S Kim

Defendant(s):

BAC HOME LOANS SERVICING,

Pro Se

BANK OF NEW YORK AS

Pro Se

Shellpoint Mortgage Servicing

Pro Se

Joint Debtor(s):

Veronica Matthewson

Represented By
Caroline S Kim

Plaintiff(s):

Patrick Matthewson

Represented By
Raymond Gaitan

Veronica Matthewson

Represented By
Raymond Gaitan

Trustee(s):

Kathy A Dockery (TR)

Pro Se

Kathy A Dockery (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

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2:16-11220 Andrew Babakhanlou

Chapter 13

Adv#: 2:16-01075 Issaghoulian v. Babakhanlou

#4.00 Pretrial conference re: Complaint for nondischargeability
to 11 U.S.C. section 523 (a)(2) and 11 U.S.C. section 523(a)(4)
fr. 4/26/16, 6/21/16, 8/9/16, 10/11/16

Docket 1

***** VACATED *** REASON: Vacated per court order (adv. dkt. 32).**

Tentative Ruling:

Party Information

Debtor(s):

Andrew Babakhanlou

Represented By
Matthew D Resnik
Kevin T Simon

Defendant(s):

Andrew Babakhanlou

Pro Se

Plaintiff(s):

Vrej Issaghoulian

Represented By
Armen Shaghzo

Trustee(s):

Kathy A Dockery (TR)

Pro Se

Kathy A Dockery (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

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2:16-16363 Lake Mathews Mineral Properties, LTD

Chapter 11

#5.00 Cont'd status conference re: Chapter 11 Case
fr. 6/21/16, 7/19/16, 9/6/16, 9/27/16

Docket 6

Tentative Ruling:

Tentative Ruling for 11/8/16:

Appearances required.

(1) Current issues

(a) Appointment of a chapter 11 trustee. This Court has reviewed the responses and related documents (dkt. 88-100) to this Court's order to show cause why this court should not appoint a trustee or order other remedies (the "OSC," dkt. 78). The parties should be prepared to address the merits of the OSC and responses.

(b) Motion by creditor Pecas, LLC's ("Pecas") for relief from the automatic stay/abstention (dkt. 57). The tentative ruling is to continue this matter to the same time and date as the continued status conference in this case, so that whoever is in charge of the bankruptcy estate can engage in meaningful analysis and then negotiate and/or litigate with Pecas in an appropriate forum.

(2) Deadlines/dates. This case was filed on 5/13/16.

(a) Bar date: 9/1/16 (timely served, dkt. 38).

(b) Plan/Disclosure Statement*: no deadline for now.

(c) Continued status conference: 12/13/16 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/27/16:

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CONT... **Lake Mathews Mineral Properties, LTD**
Appearances required by counsel for the debtor.

Chapter 11

(1) Current issues

The tentative ruling is to issue an order to show cause ("OSC") as follows: "The debtor must show cause why a trustee should not be appointed - or alternatively why an examiner should not be appointed or the case should not be converted or dismissed - because of the numerous deficiencies outlined below, despite the pendency of this case since May 13, 2016." The tentative ruling is to set the hearing on that OSC for the same date and time as the continued Status Conference as set forth below, with a deadline of 9/28/16 for the debtor to lodge a proposed OSC that attaches, adopts, and incorporates by reference a copy of this tentative ruling (including all prior tentative rulings reproduced below). The order should further provide (i) that the debtor must serve a copy of the signed order on all known parties in interest no later than one business day after the order is issued, and (ii) that the deadline is 10/4/16 for the debtor to file and serve any brief in response to the OSC (not to exceed 10 pages, exclusive of any supporting evidence).

(a) Equity holders list. The debtor has failed to provide anything approaching (i) a comprehensive list of the persons who may be equity holders including (ii) disclosure of whatever lack of information or disputed issues may exist and (iii) what efforts have been made to remedy those things and provide notice to all persons who might conceivably be equity interest holders, despite prior express cautions by this court at the hearings on 6/21/16 and 7/29/16 and in the tentative rulings prior to those hearings (reproduced below). The documents remain internally inconsistent (e.g., the multiple classes of equity are all mixed together without disclosure of their different interests and obligations; the percentages, when listed, do not add up to 100%; some percentages or other information have changed without explanation; etc.). *Compare, e.g.,* dkt. 44, PDF pp. 5-8 *with* PDF pp. 9-11, *and with* dkt. 59 (amended list of equity holders filed 8/2/16).

(b) Failure to prosecute this case. The debtor's sole meaningful asset appears to be its litigation (see, e.g., MORs for June, July & Aug., dkt. 54, 62, 75, showing essentially no activity or income). Yet the debtor has failed to file its long-promised adversary proceeding to resolve conflicting alleged interests in the assets that the estate claims to own.

In fact, the debtor has not even filed its application to employ Mr. Palmieri as special litigation counsel, despite express cautions by this court at

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the hearings on 6/21/16 and 7/29/16 and in the tentative rulings prior to those hearings (reproduced below).

(c) Motion by creditor Pecas, LLC's ("Pecas") for relief from the automatic stay/abstention (dkt. 57). Pecas seeks relief under 11 U.S.C. 362(d)(1), and it argues that mandatory abstention applies under 28 U.S.C. 1334(c)(2), which essentially requires abstention as to "non-core" matters that are pending in State court if those matters can be "timely adjudicated" therein. The debtor's response (dkt. 64) primarily raises the following arguments.

First, it argues (dkt. 64, MPA, pp.4:17-21, 5:7-11) that there is no evidence that the matters pending in the courts of the State of California can be timely adjudicated, especially given the multiplicity of claims. True, but nor is there any contrary evidence, and no party has briefed who has the burden of proof. Nevertheless, the debtor at least initially has the better argument because this Bankruptcy Court takes judicial notice that the State courts have been hampered by budget cuts and numerous delays (as reported in legal and other newspapers, and as reflected in proceedings in other cases before this court). That begs the question, however, whether litigation in this court will be any faster (at least without appointment of a chapter 11 trustee).

Second, the debtor argues (dkt. 64, MPA, p.6:4-7) that mandatory abstention does not apply because "adjudication of [Pecas'] state court complaint and the multiple claims to arise from the distribution from the MWD should be found to be core proceedings to be tried in this Court." Neither Pecas nor the debtor provide any analysis of what claims are or are not core proceedings. Pecas, as the party asserting mandatory abstention, presumably has the burden to establish that element.

Third, the debtor argues (dkt. 64, MPA, pp. 3:24-27, 4:7-15, 5:26-6:1) that it did not file this bankruptcy case in bad faith and that this is the best forum to bring litigation to sort out all the conflicting claims, rights, and interests. But as outlined above it has failed to do so.

Based on the foregoing, the parties have not presented a very complete picture of either the facts or the law regarding relief from the automatic stay. The essential elements for mandatory abstention have already been reviewed, so for the moment this court focuses on "cause" for relief from the automatic stay under 11 U.S.C. 362(d)(1) (which, incidentally, are similar to the considerations for discretionary abstention).

"Cause" [for relief from the automatic stay] is determined on a case-by-case basis." *In re Tucson*, 912 F.2d 1162, 1166 (9th Cir.1990). In

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determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Keeping this factors in mind, this court makes the following observations. On the one hand, the debtor apparently filed this bankruptcy case on the eve of a deposition in State court and in an attempt to delay trial in State court, and as described above the debtor has failed to prosecute this bankruptcy case and the promised adversary proceeding. On the other hand, it is often true that one advantage of a bankruptcy case can be to combine multiple conflicting and inconsistent actions in State courts into a single forum; sometimes the litigation in bankruptcy court can be faster; and the procedural rules in bankruptcy cases are designed for relatively speedy and

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inexpensive resolutions of disputes (because the bankruptcy estate often cannot afford exhaustive litigation).

It may be in the best interests of creditors, equity holders, and all parties to resolve the various disputes in this forum if that can be done expeditiously. Because that latter issue is uncertain, and because the parties have not squarely addressed the other critical legal and factual issues referenced above, the tentative ruling is to continue the hearing on this motion until the date of the continued status conference set forth below.

In addition, because the dynamics of the situation may be very much changed if a chapter 11 trustee is appointed, the tentative ruling is to direct the parties not to file any further briefs on the automatic stay/abstention issues for now. A briefing schedule can be addressed, if appropriate, at a continued hearing.

(2) Deadlines/dates. This case was filed on 5/13/16.

(a) Bar date: 9/1/16 (timely served, dkt. 38).

(b) Plan/Disclosure Statement*: Vacate the current deadline (3/15/17) due to the above problems.

(c) Continued status conference: 10/11/16 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/19/16:

Appearances required by counsel for the debtor and by the principals for the debtor(s) themselves, because they did not appear at the initial status conference.

(1) Current issues.

(a) 2004 Examination. The parties stipulated to a 2004 examination of several principal persons in this case (see dkt. 43). Have these concluded?

(b) Consensual resolution. At the prior hearing, there was some amount of discussion that certain issues had been consensually resolved.

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Have any issues been consensually resolved?

(c) Employment of professionals. This Court has reviewed the further declaration of Mr. Berger (dkt. 35) and it appears to resolve the issues raised by this Court. When does the debtor anticipate filing an amended application to employ Mr. Palmieri as special litigation counsel?

(d) Amended list of equity holders and other amended bankruptcy schedules. The debtor included two versions of the list of equity shareholders (*compare* dkt. 44, PDF pp. 5-8 *with* PDF pp. 9-11), and these two versions are not entirely consistent. For example, one version lists James D Homes Class A interest as 34.715% but the other version lists his interest as 18.904%. By way of another example, LHSM, Inc. is listed as owning 85% of Class B shares in one list of equity shareholders while in the other it is listed as owning only 5%. While these can likely be corrected and clarified (and they must be), this Court is concerned that this inconsistency may be endemic of larger disclosure problems.

(2) Deadlines/dates. This case was filed on 5/13/16.

(a) Bar date: 9/1/16 (timely served, dkt. 38).

(b) Plan/Disclosure Statement*: file by 3/15/17 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 6/21/16:

Appearances required by counsel for the debtor and by the principal(s) for the debtor themselves.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 19), the applications to employ counsel (dkt. 15, 22), and all other filed papers in this case.

(a) Is the bankruptcy petition authorized? Is the corporate resolution (dkt. 1, PDF p. 6) sufficient to authorize this bankruptcy? The resolution is not by the debtor but instead by its general partner, Lawrence Holmes Senior Mining, Inc. ("Holmes Mining"). Does the debtor's partnership agreement authorize its general partner to file a bankruptcy petition without the consent of the debtor's own directors (not Holmes Mining's directors)?

Even if such authorization would be sufficient, has it actually been authorized? The corporate resolution is entitled a "board" resolution but only three of the four signature lines are signed. Typically an organization's governing documents require any resolutions that are not unanimous to be adopted at an actual meeting (in person or telephonic), and if Holmes Mining's governing documents follow that pattern then it appears that the resolution is incomplete and ineffective.

(b) Are the bankruptcy disclosures accurate?

(i) Equity interests in the debtor. The disclosed equity interest holders (dkt. 1, PDF p. 10) are unclear. None of the people identified appear to hold a direct interest in the debtor, but, rather hold interests in related entities or in the debtor's profits. Is this correct?

Even assuming that the persons disclosed are equity holders in the debtor at the amount of the interests stated, the interests stated do not equal 100%. Moreover, the debtor posits (dkt. 19, Attachment 1) that the original owners of the mining claim sold far more than 100% of the ownership interests in that claim (or in the debtor itself - the debtor is not entirely clear on that issue). Who (else) owns an interest in the debtor, and/or has a possible claim in this bankruptcy case, and/or should be included in the matrix of persons to receive notices in this case?

(ii) Does the debtor own real property or own equity in an entity that owns real property? Compare Bankruptcy Schedule A/B (dkt. 1, PDF p. 14) with Bankruptcy Schedule D (dkt. 1, PDF pp. 17-24) and Bankruptcy Schedule G (dkt. 1, PDF p. 26). Does the debtor only own a 25% interest in

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PECAS, LLC, with an asserted ability to unwind the transaction whereby the debtor transferred all of its assets to PECAS, LLC, in exchange for its 25% interest in that entity?

(iii) Creditors and other parties in interest. Has the debtor included on the matrix all persons who should receive notices in this case, including persons who might assert an interest in the property and/or a competing interest in PECAS, LLC, and all other creditors?

(c) Should this Bankruptcy Court abstain/dismiss this case? The debtor appears to be non-operating, with no assets or operations except for its litigation, and no disclosed need for imposition of the automatic stay or other bankruptcy tools. Why is it not appropriate to defer to the State Courts to address the litigation. More broadly, why is this debtor in bankruptcy?

(d) Employment of general bankruptcy counsel (dkt. 15, 18). The proposed payment of fees by a third party raises ethical concerns addressed below.

(e) Employment of special litigation counsel (dkt. 22).

(i) Form F 2014-1. The application is not accompanied by the local form (as required by Judge Bason) which might address some of the issues noted below.

(ii) Payment of fees by third party. This proposal raises ethical concerns addressed below. For that matter, the application is unclear about whether the fees have been and/or will be paid by Holmes Mining or Terrence O'Hearn.

(iii) Represented parties? The employment application and attached retainer letters are not sufficiently clear about who is or will be represented by proposed special counsel, Mr. Palmieri. In the so-called Merritt action he apparently represents Mr. James D. Holmes and the debtor. In the PECAS action he apparently represents at least Holmes Mining and the debtor. It is also possible that other persons are or were represented by the applicant in these matters. How can parties in interest and this Court assess potential conflicts of interest without knowing who is represented?

(iv) Actual and potential conflicts. In the retainer agreements for both the Merritt action and the PECAS action, Mr. Palmieri states that there are actual conflicts (e.g., "when an attorney represents more than one client in any proceeding, a conflict arises"). See, e.g., dkt. 22, PDF p. 22. A debtor in bankruptcy cannot waive conflicts on behalf of creditors, and conflicts generally are disqualifying (see generally 11 U.S.C. 327(a) & (e)), so is Mr.

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Palmieri simply disqualified from being retained as special counsel?

Even if the stated "conflicts" are potential or hypothetical rather than actual, and even if the ethical and legal impediments to employment could be addressed with sufficient disclosure and monitoring to guard against any nascent conflicts (issues about which this Court does not express an opinion), there does not appear to have been sufficient disclosure or proposed monitoring procedures. The employment application does not even describe the nature of the underlying litigation, making it difficult to assess what conflicts might exist or arise. Apart from the lack of notice to creditors and other parties in interest, even the debtor's board members (whoever they are) have not signed the retainer letters (or at least they are not identified as such).

Mr. Palmieri refers to a lien on the debtor's property to secure payment of his fees. Does that create a disqualifying conflict?

Do these issues preclude employment of the applicant?

(iii) Potential conflicts and issues with Mr. Palmieri himself. The application states that the debtor owes Mr. Palmieri \$150,000, but that he "has no expectation of ever being paid directly by Debtor[.]" Dkt. 22, PDF p. 29. Is he waiving his claim against the debtor?

The retainer agreements obligate the debtor to pay \$10,000 per month on outstanding balances (dkt. 22, PDF p. 20, 25), they include an agreement to the reasonableness of him charging his stated \$490 hourly rate (for services yet to be rendered), and as noted above they appear to contemplate attorney fee liens. Are these provisions (and others) an effort to circumvent the payment procedures of the Federal Rules of Bankruptcy Procedures and the Bankruptcy Code?

(iv) Compensation. Does the applicant seek compensation under 11 U.S.C. 328 or 330 (*compare* dkt. 22, p. 3:11 *with* dkt. 22 PDF p. 29, para 4)? Assuming the former, why is this appropriate? If the debtor is ultimately responsible for all fees, why is it appropriate for this Court not to review fees under section 330 (for reasonableness) rather than insulate such fees from review under section 328?

(e) Payment of fees by a third party. A third party who funds a retainer for the debtor (the "Funder") generally has some pre-existing relationship with the debtor, and/or some motivation to providing the funding. Those things increase the likelihood that the Funder could be the recipient of an avoidable preference, or might have alter ego liability, or otherwise might have interests

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that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. At the hearing, proposed counsel (both proposed general bankruptcy counsel and proposed special litigation counsel) should be prepared to address the following.

(i) Connections. What are all of the connections between the Funder, on the one hand, and the debtor's proposed counsel or any of the other types of persons listed in FRBP 2014, on the other hand -- e.g., have there been any economic or business or personal connections between the Funder and proposed counsel, or the debtor, or any creditor or other party in interest, or their respective attorneys or accountants?

(ii) Terms. What are the precise agreements, understandings or expectations regarding the funds -- e.g., are the retainers paid so far have been described as a "gift," but will future payments be a loan, a gift, an investment, or something else?

(iii) Informed consent of funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with the debtor, not the Funder? There are declarations that purport to provide consent, signed by Steven Winstead (see dkt. 18; dkt. 22, PDF pp. 9-11), but these declarations are insufficient in at least several ways.

For example, is Mr. Winstead authorized to bind Holmes Mining to make past, present, and future gift contributions to the debtor for all fees incurred? Does there have to be notice to any owners of Holmes Mining that these waivers or agreements have been entered into?

Who, if anyone, advised Mr. Winstead and/or Holmes Mining and any other parties about potential or actual conflicts? Did they have independent counsel? Was it the debtor's proposed counsel? Have all Funders given their informed consent? Are those things in writing?

(iv) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing?

(v) Other considerations. Has proposed counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena*

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Corp., 63 F.3d 877 (9th Cir. 1995).

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(2) Deadlines/dates. This case was filed on 5/13/16. If this case is not dismissed or converted, the tentative ruling is to set the following deadlines.

(a) Bar date: 9/1/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 3/15/17 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 8/9/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lake Mathews Mineral Properties,

Represented By
Michael Jay Berger

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Chapter 11

#6.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 9/6/16, 9/27/16

PECAS, LLC
vs
DEBTOR

Docket 57

Tentative Ruling:

Tentative Ruling for 11/8/16:

Please see the tentative ruling for the status conference (calendar no. 5, 11/8/16 at 2:00 p.m.).

Tentative Ruling for 9/27/16:

See calendar no. 4 (tentative ruling for chapter 11 status conference, 9/27/16, 1:00 p.m.).

Party Information

Debtor(s):

Lake Mathews Mineral Properties,

Represented By
Michael Jay Berger

Movant(s):

PECAS, LLC.

Represented By
Cassandra J Richey

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Chapter 11

#7.00 OSC Re: Appointment of Trustee or Alternatively an Examiner;
Converting the Case to a Chapter 7; or Dismissing the Case

Docket 78

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5,
11/8/16 at 2:00 p.m.).

Party Information

Debtor(s):

Lake Mathews Mineral Properties,

Represented By
Michael Jay Berger

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2:16-11016 Silvia Parker

Chapter 13

#8.00 Cont'd hrg re: Emergency Motion for Order Compelling
Sale Proceeds to be Held in Escrow and for
Issuance of an Order to Show Cause Why
This Case Should Not be Converted to Chapter 7
fr. 07/28/16, 8/9/16, 10/25/16

Docket 0

Tentative Ruling:

Tentative Ruling for 11/8/16:

See tentative ruling for chapter 7 case status conference (11/8/16, 2:00 p.m., calendar no. 13).

Tentative Ruling for 8/9/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 7/28/16 hearing on the motion, this court directed the parties to meet and confer in an effort to reach a consensual resolution of their disputes. There is no tentative ruling, but the parties should be prepared to address the status of their negotiations.

Regarding sanctions, this court intends to issue an order to show cause re: sanctions as to Mr. Luppi, and possibly as to the debtor, for their conduct related to the unauthorized sale of the debtor's real property.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/28/16:

Appearances required in person by the debtor and the debtor's attorney.

All other parties may appear telephonically if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.",

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"Instructions/Procedures").

Chapter 13

There is no tentative ruling, but the parties should be prepared to address the issues raised in the motion (dkt. 68) and this court's orders temporarily granting the motion (dkt. 70).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Silvia Parker

Represented By
Michael D Luppi

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:16-11016 Silvia Parker

Chapter 13

#9.00 Cont'd hrg re: Objection to Claim Number 3
by Claimant Hiu Cheung Lau
fr. 07/28/16, 8/9/16, 10/25/16

Docket 48

***** VACATED *** REASON: This matter is scheduled to be heard on
02/21/17 per parties Stipulation (dkt. 22) in adversary case**

Tentative Ruling:

Tentative Ruling for 11/8/16:

See tentative ruling for chapter 7 case status conference (11/8/16, 2:00 p.m.,
calendar no. 13).

Tentative Ruling for 8/9/16:

See tentative ruling for emergency motion (8/9/16, 2:00 p.m., calendar no. 9).

Tentative Ruling for 7/28/16:

This court anticipates posting a tentative ruling at a later time.

Party Information

Creditor(s):

Hiu Cheung Lau

Represented By
Glenn Ward Calsada

William B. Wright

Represented By
Carol G Unruh

Debtor(s):

Silvia Parker

Represented By
Michael D Luppi

Trustee(s):

Kathy A Dockery (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

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Chapter 7

Adv#: 2:16-01321 Lau v. Parker

#10.00 Cont'd hrg re: Motion to dismiss complaint to determine the nature, extent, validity and priority of plaintiff's interest in property, for adequate conversion, for intentional interference with contract and for rejection damages
fr. 9/13/16

Docket 7

Tentative Ruling:

Tentative Ruling for 11/8/16:

See tentative ruling for adversary proceeding status conference (11/8/16, 2:00 p.m., calendar no. 11).

Tentative Ruling for 9/13/16:

Continue to 11/8/16 at 2:00 p.m. to be heard concurrently with the continued hearing on the defendant's objection to claim 3-1, the plaintiff's emergency motion re: sale proceeds, and the status conference in this adversary proceeding. Appearances are not required on 9/13/16.

No later than 9/16/16, the plaintiff's counsel must file and serve notice of the continued hearing, as well as notice of the continued hearings on the above-referenced matters from 10/25/16 at 2:00 p.m. to 11/8/16 at 2:00 p.m.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Silvia Parker

Represented By
Michael D Luppi

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Chapter 7

Defendant(s):

Silvia Parker

Represented By
Michael D Luppi

Plaintiff(s):

Hiu Cheung Lau

Represented By
Glenn Ward Calsada

Trustee(s):

Peter J Mastan (TR)

Pro Se

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2:00 PM

2:16-11016 Silvia Parker

Chapter 13

Adv#: 2:16-01321 Lau v. Parker

#11.00 Status conference re: Complaint to determine the nature, extent, validity and priority of plaintiff's interest in property, for equitable conversion, for intentinal interference with contract and for rejection damages
fr. 10/25/16

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard on 02/21/17 per parties Stipulation (dkt. 22)**

Tentative Ruling:

Revised Tentative Ruling for 11/8/16:

See tentative ruling for chapter 7 case status conference (11/8/16, 2:00 p.m., calendar no. 13).

Tentative Ruling for 11/8/16:

Appearances required. The tentative ruling is to order mediation for the plaintiff, defendant, and the Chapter 7 Trustee (without, at this time, determining what interest the chapter 7 debtor retains in this matter, or whether the Chapter 7 Trustee is a legally necessary party, or any other legal or factual issues).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Silvia Parker

Represented By
Michael D Luppi

Defendant(s):

Silvia Parker

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

2:00 PM

CONT... Silvia Parker

Chapter 13

Plaintiff(s):

Hiu Cheung Lau

Represented By
Glenn Ward Calsada

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

2:00 PM

2:16-11016 Silvia Parker

Chapter 7

#12.00 Order to show cause why they should
not be sanctioned

Docket 97

Tentative Ruling:

Revised Tentative Ruling for 11/8/16:

The tentative ruling remains unchanged except that, in view of the fact that no appearances are required for other matters, and in the interest of reducing costs and inconvenience for all parties, appearances are not required on this matter unless a party in interest seeks to contest the tentative ruling.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 11/8/16:

Appearances required. This court has reviewed the declarations filed in response to the OSC (dkt. 101 and 102), and the tentative ruling is not to impose sanctions against the debtor (absent any further misconduct) but to impose sanctions of \$1,000 against counsel for the debtor, Mr. Luppi, for the conduct set forth in the OSC (dkt. 97). This court will prepare a sanctions order/judgment after the hearing. Mr. Luppi is cautioned that any future disposition of assets out of the ordinary course without a court order, and any other violation of the limitations under the Bankruptcy Code, Federal or Local Rules, or this court's orders, may result in far greater sanctions and/or referral to this court's disciplinary panel.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Silvia Parker

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

2:00 PM

CONT...

Silvia Parker

Michael D Luppi

Chapter 7

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

2:00 PM

2:16-11016 Silvia Parker

Chapter 7

#13.00 Status conference re: Chapter 7 case

Docket 0

Tentative Ruling:

Revised Tentative Ruling for 11/8/16:

Based on the parties' stipulations (a) to continue the hearings on the claim objection and motion to dismiss the adversary proceeding to 2/21/17 at 2:00 p.m. (adv. dkt. 21) and (b) to transfer the net proceeds of sale to the Chapter 7 Trustee to hold pending resolution of the parties' disputes (case dkt. 105), the tentative ruling is (1) to continue this status conference to 2/21/17 at 2:00 p.m. and (2) not to order mediation at this time, because the parties report that they have discussed settlement and may be able to settle this matter (without the aid of mediation) depending on what claims are filed.

Appearances are not required on 11/8/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 11/8/16:

Appearances required. There is no tentative ruling, but the parties including the Chapter 7 Trustee should be prepared to address the status of their negotiations, if any, regarding the proceeds from the sale of the debtor's real property, as well as their intentions with regard to the objection to proof of claim 3-1 filed by the debtor prior to conversion of this case to chapter 7 (dkt. 48).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Silvia Parker

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 08, 2016

Hearing Room 1545

2:00 PM

CONT...

Silvia Parker

Michael D Luppi

Chapter 7

Trustee(s):

Peter J Mastan (TR)

Represented By
David M Goodrich